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# HOW DID WE GET HERE FROM THERE: REFORM OF THE FEDERAL BUDGET PROCESS

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How Did We Get Here from There: Ref...

## HEARINGS

BEFORE THE

### COMMITTEE ON THE BUDGET

### HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

---

HEARINGS HELD IN WASHINGTON JULY 11, 17, AND AUGUST 1, 1996

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**Serial No. 104-28**



Printed for the use of the Committee on the Budget

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U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1996

25-945cc

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For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402  
ISBN 0-16-053686-3



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# HOW DID WE GET HERE FROM THERE: REFORM OF THE FEDERAL BUDGET PROCESS

THURSDAY, JULY 11, 1996

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE BUDGET,  
*Washington, DC,*

The committee met, pursuant to notice, at 10:07 a.m., in room 210, Cannon House Office Building, Hon. David Hobson, presiding.

Present: Representatives Kasich, Hobson, Allard, Lazio, Hoke, Nussle, Shadegg, Radanovich, Bass, Sabo, Stenholm, Slaughter, Coyne, Costello, Pomeroy, Browder, Woolsey, Roybal-Allard, Doggett, and Levin.

Mr. HOBSON [presiding]. The committee will please come to order. I want to thank you all for joining us today for this important series of hearings. There will be members filtering in and out. There are some appropriations markup going on now and a leadership meeting, a lot of different things going on. But we think these are very important hearings to hold for the benefit of our members. These hearings are a result of a lot of members who are interested in the budget process asking the committee to convene these meetings.

Today we would like to welcome Susan Irving, the Associate Director for Federal Budget Issues of the General Accounting Office and James Blum, the Deputy Director of the Congressional Budget Office. Today's hearing is the first in a series that will focus on the evolution of the budget process with an eye toward future reform. Our witnesses will attempt to explain some of the complexities of our Rubic's cube of the budget process looking at both Congressional budget procedures and staff shoring controls in spending in the budget.

I think, frankly, it is an opportunity for members of the Budget Committee and others to increase their understanding of the budget process. In fact, there are numerous budget process spendings pending at this time. Therefore, we have invited CBO and GAO who have the most knowledge about this subject and in part just to listen to us.

Our next hearing is scheduled to hear from outside experts with great expertise on the subject. We will hear about their ideas to potentially change or improve the process. Thirdly, the third hearing on this series will be for members of Congress to explain their ideas to the committee on how to potentially change the process.

In conclusion, I would like to take this time to thank the minority staff for working with us on these hearings. This has been a coordinated effort from both staffs and it is appreciated. I might say

the Chairman will be here, I think, in about a half an hour but in the meantime we will hear from these witnesses and I will now turn it over to Mr. Sabo for any comments he might have.

Mr. SABO. Welcome.

Mr. HOBSON. That is about as brief a statement as we have had. I am very pleased. Thank you, Mr. Sabo, for your outstanding remarks.

Mr. SABO. Do you want me to say more?

Mr. HOBSON. No. As long as the television cameras are not here, I guess we are okay. I would like to recognize Dr. Irving first for her comments and then Mr. Blum.

**STATEMENT OF SUSAN J. IRVING, ASSOCIATE DIRECTOR,  
BUDGET ISSUES, ACCOUNTING AND INFORMATION MANAGE-  
MENT DIVISION, GENERAL ACCOUNTING OFFICE**

Ms. IRVING. Mr. Hobson, Mr. Sabo, members of the committee, thank you for inviting us to join you as you begin looking at the budget process. In my written statement, which I would ask be incorporated in the record, I include two things that I will not discuss in my oral presentation. One is a list of GAO statements and reports that include a discussion of various elements or possible changes in the budget process. And the other is a broader view of as objectives for or criteria on which to judge a budget process.

But per your request today what I'd like to do instead is stand back and talk a little about where we are today and how we got there. First, I would like to say that whatever our frustrations are with the budget process we should not ignore the importance of debates over the budget. In a very real sense, the debate over the budget is a debate about what and how the Federal Government should do; about how much of the wealth produced in this country shall be taken for the collective use and how it shall be spent. You could argue that there is little more important on which to spend time. So I think that when we complain about how long it takes, we should keep in mind that it is, in fact, an incredibly important forum for reaching agreement about the role of the Federal Government.

At the same time everyone involved in this process is frustrated. The public finds it totally confusing. Executive agencies find it burdensome and time-consuming, and for all of you it seems to take forever and involve a great many repetitive votes. And all too often, for all of us the results are disappointing compared to what we had hoped for. But for all that, I think the process has some strengths. I think it is important, as the Chairman indicated in his letter to us, to understand how we got where we are. We can understand the current process only by recognizing how it was created. No one came on the Mayflower and created this process as a single entity. It was created in stages over time with each layer added on to the existing layers—and that is part of why it looks the way it looks.

The 1974 act, which by now for some people is distant memory, was an incredibly important step. It reasserted Congress' role and control over fiscal policy. I think it is hard for us to remember that prior to 1974 the President had a fiscal policy but the Congress did not. There had been a steady erosion in Congress' ability to control the total of spending and revenues as more and more spending was

outside by the control of the Appropriations Committee. That Committee which had served as the central control had begun to lose its power.

So for the first time the 1974 act gave Congress the right to say this is the total we expect to take in. This is the total we expect to spend, and these are the missions on which we expect to spend it. The act was not aimed at a specific outcome, perhaps in part because it had been only five years since the last balanced budget and the authors of the 1974 act did not realize how rare an event that would be. They were not focused on forcing balance. They were focused on forcing a return of Congressional power.

It was not until 1985 with the Gramm-Rudman-Hollings Act that the process was changed to aim at a specific target, zero deficit. There are some what you might call inside-the-Beltway changes that the Gramm-Rudman-Hollings created that I think did improve budget discipline. But fundamentally Gramm-Rudman-Hollings was unable to produce its promised zero deficit because it was not accompanied by an underlying policy agreement. You cannot substitute targets and gimmicks, I think, for policy agreement. Indeed, the design of Gramm-Rudman led to timing games. Those of you who were here then remember moving paydays from one fiscal year to the other to meet annual targets.

In the design of the 1990 Budget Enforcement Act, BEA, you see the lessons learned from the failure of Gramm-Rudman. It changed the focus of accountability and enforcement from some number that results not only from actions but also to congressional action from the economy. It sought to hold the Congress and its constituent committees accountable for its actions and their effects. Just as "All Gaul is divided into three parts," BEA divided all of the budget into two parts: so-called discretionary and that wonderful term PAYGO.

On the discretionary side of the budget, that part of the budget that goes through the appropriations process, it established nominal dollar caps. This is a clear and transparent target easily measurable. And whether or not it is met is also easily measurable. You can look at how much money the appropriations bills provide and measure them against the appropriations caps. The amount of budget authority provided in an appropriations act is solely within the control of the Congress and it can be measured against the target. You have then the ultimate performance measure, something that is transparent and easily measurable with accountability focused. BEA did focus enforcement: those who broke the rules would be punished. We have had very limited sequesters. Some of you remember the .0013 percent sequester several years ago.

On the PAYGO side of the budget again it focused on actions. But on this side of the budget controlling actions is not the same as controlling dollars out the door. What PAYGO did was say that if Congress wishes to expand entitlement programs, decrease taxes or expand tax expenditures it must, over the course of a Congress, offset that expansion. Those actions must be deficit neutral over several different time periods. And BEA has succeeded in the two things it set out to do. The discretionary caps have held; discretionary spending has been at or under the caps every year. And the PAYGO restriction has held.

But BEA did not seek to change the automatic path of programs whose spending is determined by formula. The Budget Enforcement Act did not seek to force a change in the design of Medicaid, Medicare, retirement programs, farm price supports, or anything else where the amount of money out the door is a function of the intersection of demographics, price activity in the outside world, the economy and law. And it did not accidentally succeed in having that result.

The problem that confronts all of you today is: it is that part of the budget that is driving the budget future. It is the changes in spending that are on automatic pilot. Fundamentally, it is health in the short term and then, as my generation seeks to retire, it is retirement programs that drive the long-term deficit outlook. Although BEA offers you a structure under which to consider those issues—reconciliation—it does not force you to do so.

I will conclude by just saying no process can solve this problem. A budget process can shape the choices you are confronted with. It can present information in a way you find easy to deal with or difficult to deal with. It can inform the debate and it can offer you a mechanism by which to package unpleasant choices so that everybody jumps off a cliff together, and that is really what reconciliation is. But it cannot force anyone to do that and it cannot force policy agreement where none exists.

[The prepared statement of Susan J. Irving follows:]

PREPARED STATEMENT OF SUSAN J. IRVING, ASSOCIATE DIRECTOR, BUDGET ISSUES,  
ACCOUNTING AND INFORMATION MANAGEMENT DIVISION, GAO

Mr. Chairman and Members of the Committee, I am pleased to be here today to discuss the budget process with you. Everyone involved in that process shares some frustration with it. The public finds it confusing. Executive branch agencies find it burdensome and time-consuming. Members of the Congress say it seems too lengthy with its many votes on authorizations, the budget resolution, reconciliation, appropriations, and the debt limit. And, too often, the results are not what was expected or hoped for.

In one sense, of course, nothing could be more important than debates about the budget—and important debates often take time. Budgeting is the process by which we as a nation resolve the large number of often conflicting objectives that citizens seek to achieve through government action. The budget determines the fiscal policy stance of the government—that is, the relationship between spending and revenues. And it is through the budget process that the Congress and the President reach agreement about the areas in which the federal government will be involved and in what way.

Because the decisions are so important, we expect a great deal from our budget and budget process. We want the budget to be clear and understandable. We want the process to be simple—or at least not too complex. But at the same time we want a process that presents the Congress and the American people with a framework to understand the significant choices and the information necessary to make the best-informed decisions about federal tax and spending policy. That is not easy.

Over the past several years GAO has made a number of suggestions about changes in the budget process. A list of some of those testimonies and reports is attached to my statement. Today, however, as you requested, I'd like to focus not on specific changes but on the question of how the process came to look as it does today and the challenges you face in the near term. In the second half of this written statement—consistent with the questions provided by your staff—I discuss some broad objectives and criteria one might use in looking at the design of or changes in any budget process.

BACKGROUND: THE 1974 BUDGET ACT

To understand where we are it helps to know where we've been. The budget process of today was not created in a single step. Rather, it was created in stages—and for the most part new pieces did not replace but were added to existing processes.

Looking back at the objectives and structure of the 1974 Congressional Budget and Impoundment Control Act is very useful. The Constitution gives the Congress the power of the purse. The 1921 Budget and Accounting Act centralized power over executive agency budget requests under the President and—to balance this grant of power—moved control of the audit of spending from the Treasury to a new legislative branch entity, the GAO. The Congress also centralized its own spending decisions in the House and Senate Appropriations Committees.

There was always some spending that did not go through the appropriations process—the first the Congress provided a permanent appropriation to pay interest on the debt. However, this type of spending—otherwise referred to as “backdoor” spending—increased during the 20th century. Authority to borrow was created in the early 1930s. The Social Security Act of 1935 created a new permanent appropriation. Contract authority was expanded over the years. In 1987 and again this year, we reported<sup>1</sup> that for fiscal years 1985 and 1994 close to 60 percent of budget authority and offsetting collections from nonfederal sources credited to accounts was available as a result of prior legislative action and was thus not provided in the annual appropriations process.

An attempt in the late 1940s to create a joint House/Senate “legislative budget” failed. Meanwhile, the analytic strength of the Executive Office of the President was increased.

Frustration with the piecemeal approach to spending and revenue decisions, concern that the increase in the proportion of the budget financed outside the appropriations process was leading to less control, and a major disagreement over Presidential versus Congressional power to set spending led to the creation in 1972 of a Joint Study Committee on Budget Control. Its recommendations led directly to what later became the Congressional Budget and Impoundment Control Act of 1974.

In that act, the Congress declared “that it is essential—

- (1) to assure effective congressional control over the budgetary process;
- (2) to provide for congressional determination each year of the appropriate level of Federal revenues and expenditures;
- (3) to provide a system of impoundment control;
- (4) to establish national budget priorities; and
- (5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.”

We all often forget that the 1974 act did not seek a specific result in terms of the deficit. Rather, it sought to assert the Congress’ role in setting overall federal fiscal policy and establishing spending priorities and to impose a structure and a timetable on the budget debate. Underlying the 1974 act was the belief that the Congress could become an equal player only if it—like the executive branch—could offer a single “budget statement” with an overall fiscal policy and an allocation across priorities. Prior to 1974 only the President had a fiscal policy. The Congress did not look at the budget as a whole and there was no congressional budget *per se*, only the cumulative result of individual pieces of legislation. The Congress did not examine or vote on overall spending or revenues. The 1974 act sought to change that, and it did.

The act sought to create a “Congressional” budget as a counterpoint to the President’s budget—but it carefully avoided giving the Budget Committees anything like the power or even the coordinating role of the President’s Office of Management and Budget (OMB). The Budget Committees were layered on top of the existing committee structure, and limitations were placed on the level of detail with which the Budget Committees could deal. The Budget Resolution was to represent a Congressional statement about total revenues and total spending and about the allocation of spending across various national missions. The design of programs and the allocation of spending within each mission area would be left to the authorizing and appropriations committees. The Budget Committees would deal in round numbers—they could not decide policy. Of course, this distinction was always a little artificial. Even in a world of lower deficits there were always policy assumptions behind the numbers. Frequently policy or program design defines the range of numbers possible. And, it turns out that the model of first deciding how much and then debating the specifics is not an entirely comfortable model for federal budget decisions. For some, the decision on “how much” is tied to the decision on how that number will be achieved. Recently, as the budget process has been increasingly aimed at deficit reduction, this distinction between overall numbers and the specific policies to achieve them has become more strained.

<sup>1</sup> *Budget Issues: The Use of Spending Authority and Permanent Appropriations Is Widespread* (GAO/AFMD-87-44, July 17, 1987) and *Budget Issues: Inventory of Accounts With Spending Authority and Permanent Appropriations, 1996* (GAO/AIMD-96-79, May 31, 1996).

The 1974 act also eliminated the Congress' dependence on OMB for numbers and analysis by giving the Congress an independent source of budget numbers—the Congressional Budget Office (CBO). It settled the fight about impoundments by setting up a process for the President to report rescissions and deferrals.

#### GRAMM-RUDMAN-HOLLINGS AND THE BUDGET ENFORCEMENT ACT

It was not until the Balanced Budget and Emergency Deficit Control Act of 1985—commonly known as Gramm-Rudman-Hollings or GRH—that the focus of the process changed from increasing Congressional control over the budget to reducing the deficit. Both the original GRH and the 1987 amendments (GRH II) sought to achieve a balanced budget by establishing annual deficit targets to be enforced by “sequesters” if legislation failed to achieve them. Measured against its stated objective of a balanced budget, GRH failed.

GRH sought to hold the Congress responsible for the deficit, regardless of what drove the deficit. If the deficit grew because of the economy or demographics—factors not directly controllable by the Congress—the sequester response dictated by GRH was the same as if the deficit grew because of Congressional action or inaction. If a sequester was necessary, it did not differentiate between those programs where the Congress had made cuts and those where there had been no cuts or even some increases—an almost pure prisoners' dilemma. Finally, the timing of the annual “snapshot” determining the deficit and the size of the sequester and the fact that progress was measured one year at a time created a great incentive for achieving annual targets through short-term actions such as shifting the timing of outlays.

The deficit did not, as we know, come down as envisioned. As table 1 below shows, in the year GRH II called for a zero deficit the actual deficit was \$255 billion.

TABLE 1.—GRAMM-RUDMAN-HOLLINGS (GRH) DEFICIT TARGETS AND ACTUAL DEFICITS  
[In fiscal year]

	GRH 1985	GRH 1987	Actual Deficit
1986 .....	171.9	.....	221
1987 .....	144	.....	150
1988 .....	108	144	155
1989 .....	72	136	152
1990 .....	36	100	221
1991 .....	0	64	269
1992 .....	.....	28	290
1993 .....	.....	0	255

The perceived failures of GRH led to the Budget Enforcement Act (BEA) of 1990. This act—extended and amended in the Omnibus Budget Reconciliation Act (OBRA) of 1993—was designed to enforce the multi-year provisions of the summit agreement reached by President Bush and the Congress.

GRH, with its sole focus on the deficit, was unable to achieve its goals without the Congress and the Administration agreeing to address programs whose spending is driven by economic, demographic, or other behavioral factors. The focus of BEA is very different from that of Gramm-Rudman-Hollings. BEA seeks to limit Congressional action and so to influence the result. Unlike GRH, BEA holds the Congress accountable for what it can directly control through its actions, and not for the impact of the economy or demographics, which are beyond its direct control. And on those terms BEA has been a success.

BEA did this by dividing spending into two parts: pay-as-you-go (PAYGO) and discretionary. It imposed caps on the discretionary part that have succeeded in holding down discretionary spending—as a share of gross domestic product, discretionary spending declined from 9.2 percent in 1990 to 7.2 percent in 1996. BEA has also constrained congressional actions to create new entitlements or tax cuts.

GRH sought to use a change in process to force agreement. The experience under this act showed, I believe, that no process can force agreement where one does not exist. In contrast, both in 1990 and 1993 substantive agreement on the discretionary caps and PAYGO neutrality was reached and BEA process was created to enforce this agreement. This is an important distinction.

Although BEA has succeeded on its own terms, its ambition was limited. It did not seek to control economic, price- or demographic-driven growth in existing direct spending programs or tax expenditures, and these are the areas of greatest growth today.



## MEETING THE CHALLENGE OF TODAY

A budget process can facilitate or hamper substantive decisions, but it cannot replace them. The budget structure can make clear information necessary for important decisions or the structure can make some information harder to find. The process can highlight tradeoffs and set rules for action.

Later in this statement I suggest some broad objectives for a budget process or criteria by which it might be judged. As your staff requested, however, I will first expand a little on the question of how BEA's design and the evolution of the budget process relates to the challenges you face today.

BEA created a sharp distinction between appropriated programs—the discretionary portion of the budget—and what are called direct spending programs—primarily entitlements—and revenues. Within entitlements BEA made another distinction between changes in program costs driven by legislation and those driven by changes in population, the economy, private behavior, or prices. Because the sharpness of this distinction has become even more important, I'd like to elaborate a little.

BEA focused on actions: it specified that the Congress must appropriate only so much money each year for discretionary programs and that any legislated changes in entitlements and/or taxes during a session of the Congress were to be deficit-neutral. The effect of this control on discretionary programs and on entitlements has been quite different.

Spending for discretionary programs is controlled by the appropriations process. The Congress provides budget authority and specifies a period of availability. Controlling legislative action is the same as controlling spending. The amount appropriated can be specified and measured against a cap.

For entitlement programs and for revenues, controlling legislative actions is not the same as controlling spending or revenues. For an entitlement program, spending in any given year is the result of the interaction between the formula that governs that program and demographics or services provided. For example, spending for a retirement program is a function of the number of retirees, the amount each is entitled to under the program's benefit formula, and any inflation adjustment. The eligibility rules and the benefit formulas are specified in law; the number of dollars to be spent is not. BEA required that if the Congress and the President were to legislate an expansion in any entitlement program—either through the benefit formula or the individuals or services covered—that expansion had to be "paid for" during the same session of the Congress through either a legislated reduction in another entitlement program or a revenue increase. Legislated changes in entitlements and taxes were to be deficit-neutral over multi-year periods. However, BEA did NOT seek to control changes in direct spending or in revenues (including tax expenditures) that resulted from changes in the economy, changes in population, changes in the cost of medical care, etc. And it is the increased cost of entitlements caused by such changes that is driving the budget outlook.

In the recent report on backdoor spending for Chairman Domenici and Senator Exon we reported that the greatest growth in such spending authority since our 1987 report has not been new accounts but in accounts—largely medical and retirement—which have existed for 30 years or more. Indeed, 6 accounts, all of them in existence more than 30 years, used 84 percent of total permanent appropriations used in 1994.

In a 1995 report to you and Chairman Domenici we updated our simulations of the long-term economic impacts of deficits we first published in a 1992 report.<sup>2</sup> We identified three forces driving the long-term growth of budget deficits: health spending, interest costs, and—after 2010—Social Security. These simulations did not assume any legislated changes in health programs. Nonetheless, health care cost inflation and the aging of the population work together to drive the deficit to unsustainable levels with extremely negative economic effects.

## BROAD OBJECTIVES FOR A BUDGET PROCESS

Are the expressed objectives of the 1974 act still relevant as we approach the 21st century? At one level the answer must clearly be "yes." Some of these objectives have been met—there is now a system of impoundment controls—and others have now been firmly embedded into the framework of our budget debate. And, in a broad sense, there can be little quarrel with the need to continue effective congressional control over the budgetary process, to provide for congressional determination of the

<sup>2</sup>*The Deficit and the Economy: An Update of Long-Term Simulations* (GAO/AIMD/OCE-95-119, April 26, 1995) and *Budget Policy: Prompt Action Necessary to Avert Long-Term Damage to the Economy* GAO/OCG-92-2, June 5, 1992).

appropriate level of federal revenues and expenditures, or to establish national priorities. The questions that confront those who would stand back and look at the process as a whole are to what degree have these objectives been achieved, should they be modified, and—given the challenges of the near future—should the Congress have additional objectives for its budget process.

I would like to turn now to the question of what a budget process should do. Some of this discussion repeats points made earlier but in a different context. First, I'll list four broad goals or criteria for a budget process, discuss the current process in those terms, and comment on some possible changes. Then I'll turn on the overarching issue of streamlining the process.

A budget process should:

- provide information about the long-term impact of decisions while recognizing the differences between short-term forecasts, medium-term projections, and a long-term perspective;

- provide information and be structured to focus on the important macro trade-offs, e.g. between consumption and investment;

- provide information necessary to make informed trade-offs on a variety of levels, e.g. between mission areas and between different tools; and

- be enforceable, provide for control and accountability, and be transparent.

Let me discuss each of these in turn.

#### *The budget process should provide a long-term perspective*

A long-term perspective is important in both a macro and a micro sense. The macro perspective has to do with our nation's economic health. In previous reports and testimonies we have argued that the nation's economic future depends in large part upon today's budget and investment decisions.<sup>3</sup> Therefore, we believe that, at the macroeconomic level, the budget should provide a long-term framework and should be grounded on a linkage of fiscal policy with the long-term economic outlook. This would require a focus both on overall fiscal policy and on the composition of federal activity.

The micro aspect of this longer-term perspective relates to those programs and activities where a longer time horizon is necessary to understand the fiscal and spending implications of a commitment. Examples include retirement programs, Medicare, pension guarantees, and mortgage-related commitments. Even very rough projections may be better in these areas than ignoring the long-term.

Although the multi-year focus of BEA represents significant progress in this regard, planning for longer-range economic goals requires exploring the implications of budget decisions for as long as 30 years or more into the future. This is not to say that detailed budget projections could be made over a longer-time horizon. Forecasts and projections are difficult enough for 1 to 3 years. The longer the time horizon, the less accurate any detailed projection is likely to be. However, there are differences between a short-term forecast, medium-term projections, and a long-term perspective.

The President, the Congress, and the public need to think about the longer term when making choices about the composition of federal activity. This is true for at least two reasons: (1) each generation is in part custodian for the economy it hands the next and (2) some changes must be phased in over long periods of time. Introducing a longer-term perspective into the budget debate without falling into the trap of treating 30-year projections as anything more than indicative simulations is difficult. In testimony last year we provided some ideas on how this might be done.<sup>4</sup> For example, if financial statements were improved and available with the President's budget, the two together would provide useful information on the longer-term implications of some policies. Another approach might be to have long-term simulations of current budget policies, perhaps over a 30-year period, prepared periodically to help assess the future consequences of current decisions. The effects of policy changes as well as broader fiscal policy alternatives could be projected over the long term. Such projections could be prepared and presented in the President's budget documents.

#### *The budget process should facilitate a focus on important macro trade-offs*

Although the surest way of increasing national savings and investment would be to reduce federal dissaving by eliminating the deficit, the composition of federal

<sup>3</sup> See *The Deficit and the Economy: An Update of Long-Term Simulations* (GAO/AIMD/OCE-95-119, April 26, 1995). See also *Budget Policy: Prompt Action Necessary To Avert Long-Term Damage to the Economy* (GAO/OCG-92-2, June 5, 1992) and *Budget Policy: Long-Term Implications of the Deficit* (GAO/T-OCG-93-6, March 25, 1993).

<sup>4</sup> *Managing for Results: Strengthening Financial and Budgetary Reporting* (GAO/T-AIMD-95-181, July 11, 1995).

spending also matters. Federal spending can be divided into broad categories based on the economic effect of that spending: consumption spending having a short-term economic impact and investment spending intended to have a positive effect on long-term private-sector economic growth. We have argued that within any given fiscal policy path, the allocation of federal activity between investment and consumption is important and is deserving of explicit consideration.

The current budget process does not prompt the executive branch or the Congress to make explicit decisions about the appropriate mix of spending for current consumption and spending for long-term investment. Appropriations subcommittees provide funding by department and agency in appropriations accounts that do not distinguish between investment and consumption spending. Although alternative budget presentations that accompany the President's budgets provide some information on investment, these are not part of the formal budget process. The investment/consumption decision is not one of the organizing themes for the budget debate. How consideration of investment versus consumption is introduced into the budget process depends on how the overall process is to be structured. We have suggested that within the existing BEA structure, incorporating an investment component under the discretionary caps would be an appropriate and practical approach to supplement the unified budget's focus on macroeconomic issues. An investment component would direct attention to the trade-offs between consumption and investment—but it would not weaken the overall fiscal discipline established by the caps. It would provide policymakers with a new tool of setting priorities between the long term and the short term.<sup>5</sup> If the Congress and the President chose to change the budget process in ways that moved away from the current system of discretionary caps and PAYGO rules, one of the issues to consider in designing a new process would be how to introduce this trade-off between the long term and the near term, between investment and consumption, into the structure of the debate.

*The budget process should facilitate informed trade-offs between missions and between the different tools of Government*

The budget process is the central process through which the President and the Congress select among and balance the competing demands for government activity in achieving various goals. Therefore, the process should provide the information necessary to debate the relative priority among national needs or missions. The functional structure of the budget resolution was intended to facilitate priority-setting even among related programs housed in different agencies and different committees. By organizing the budget along "national needs" or mission areas, the budget resolution sought to permit an examination of the totality of federal spending activity in each area—regardless of the committee of jurisdiction or the agency at issue—and to permit priority-setting and trade-offs between missions. Instead of focusing on what each department spent, the Congress and the President were to be able to look across departments at the totality of activity in education and training or income security or transportation. From the beginning, however, the structure was not complete; if the government chose to advance a given mission area through the tax code, that commitment did not show up in the functional display. So, for example, the functional structure show support for science and technology through loans or grant or federal activity but not through the research and development tax credit.

Even on the spending side of the budget, however, the functional totals do not translate into and may not match the allocation of resources to the appropriations subcommittees. While the budget resolution is organized by national mission, the appropriations subcommittees are still organized along agency lines. This makes it difficult to trace the path from the budget resolution's stated priorities through the appropriations process. Although the CBO translates the budget resolution functional totals into allocations to the full Appropriations Committees, suballocations to the subcommittees (the so-called 602(b) allocations) are made by the Appropriations Committees. At one level priority setting within the discretionary side of the budget has been delegated to the Appropriations Committee—where it resided before the 1974 act. The Congress may or may not consider this a problem. However, if you are standing back and looking at the entire budget process, a question to ask is whether the current functional structure highlights the mission tradeoffs relevant for today and whether the functional structure is doing as much to facilitate a debate among priorities as you would like.

<sup>5</sup> See *Budget Structure: Providing an Investment Focus in the Federal Budget* (GAO/T-AIMD-95-178, June 29, 1995) and *Budget Issues: Incorporating an Investment Component in the Federal Budget* (GAO/AIMD-94-40, November 9, 1993).

The sharp division BEA sought to draw between discretionary spending limits and the PAYGO scorecard made a great deal of sense. It simplified jurisdictional issues. It also recognized the difference in time horizons. Discretionary appropriations may be provided for 1 or more years and a discretionary spending cut may be a 1-year cut. Most changes in entitlement or tax law last longer than a single year. This sharp division, however, limits the ability to shift spending priorities. For example, it would be difficult to shift spending away from consumption support concentrated in the mandatory sector toward investment programs funded in the discretionary portion of the budget. Current rules do not permit cuts in mandatory spending to be used to pay for increases in appropriated programs. Consideration should be given to when and under what circumstances breaching the wall between discretionary and mandatory categories makes sense.

At a level below the establishment of broad spending priorities, the budget process should facilitate the selection of the appropriate policy tool with which to address some mission. For any given goal or mission in which the federal government will play a financial role, there are a variety of tools available: grants, loans, loan guarantees, or tax provisions. The budget process should provide the information necessary to permit a choice based not on jurisdictional problems or scoring conventions but on the match between the goal and the tool.

In order to facilitate appropriate choices, the budget must also provide information on the costs of various alternatives—on a comparable basis—and on the nature of the government's commitment. This is one area in which there has been some improvement. The Credit Reform Act changed the way loans and loan guarantees were treated in the budget because the previous cash-based treatment gave decisionmakers misleading signals on the cost comparison among grants, loan guarantees, and direct loans. However, as I noted above, there are still some programs for which either cash-based reporting sends misleading signals or for which even a 5-year perspective provides a misleading perspective on the nature of the government's actual or potential commitment.

*The budget process should be enforceable, provide for control and accountability, and be transparent*

These three elements are not identical, but they are closely related and achieving one has implications for the others. By enforcement I mean a mechanism to enforce decisions once they are made. Accountability has at least two dimensions: accountability for the full costs of commitments that are to be made, and targeting enforcement to actions taken. It can also encompass the broader issue to taking responsibility for responding to unexpected events. And, finally, the process should be transparent, that is, understandable to those outside the process. I will discuss each of these in turn.

**Enforcement.**—In general, enforceability requires a system for tracking outcomes and tying them to actions. One great strength of BEA has been the enforcement provisions. By targeting penalties to actions, BEA has succeeded in restraining discretionary spending to within the caps and in restraining new direct spending legislation. The design of the enforcement provisions in BEA has also created accountability for actions. Costs are to be recorded in the budget up front, when they can be controlled. And enforcement is targeted to actions. The appropriations committees are responsible for compliance with the discretionary spending limits while the PAYGO scorecard tracks compliance with the PAYGO rules. Unlike the prisoners' dilemma created by GRH, sequesters are applied only to an area where the breach occurs.

**Accountability.**—The targeted nature of the sequester provisions in BEA served not only as enforcement but also to provide accountability for compliance with the rules. Some of the scoring and costing rules introduced by BEA have also increased accountability for the costs of actions taken. On another level, however, accountability is diffuse. The deficits in the early 1990s were greater than those expected by those who voted for an complied with the provisions of OBRA. This slippage was due almost entirely to a worse than expected economy and "technical changes."<sup>6</sup> Although GRH showed that holding committees responsible for results rather than actions is problematic, there are ways to bring more responsibility for the results of unforeseen actions into the system.

We, and former CBO director Reischauer, have previously suggested that the Congress might want to consider introducing a "lookback" into its system of budgetary controls. In a report issued to the Republican leadership last year, we described such a process under which the Congress would periodically look back at progress

<sup>6</sup> For the discussion of this, see *Budget Process: Issues Concerning the 1990 Reconciliation Act* (GAO/AIMD-95-3, October 7, 1994).

in reducing the deficit.<sup>7</sup> Such a lookback would compare the current CBO deficit projections to those projected at the time of a prior deficit reduction agreement and/or the most recent reconciliation legislation and analyze the reasons for any difference. For a difference exceeding a predetermined amount, the Congress would decide explicitly—by voting—whether to accept the slippage or to act to bring the deficit path closer to the original goal by recouping some or all of this slippage. Although one could argue that each year's budget resolution implicitly accepts or rejects changes in the deficit outlook, it does not require an explicit consideration and decision. Adoption of the requirement for such explicit consideration would provide members who make difficult choices in reconciliation an additional opportunity to ensure that the deficit path they voted for will, in fact, materialize.

A similar—but more narrowly focused—process could be used to prompt consideration of the path of mandatory spending.<sup>8</sup> Under its current structure, BEA requires any action that would cause a growth in mandatory spending to be offset, but it leaves completely unconstrained any growth in these programs that results from economic or demographic factors. This distinction is consistent with the act's focus on controlling actions, but it has created other problems. Indeed, the very success of BEA at constraining discretionary and new direct spending has highlighted the dramatic growth in some entitlement programs. One way to begin to deal with this might be to adopt a procedure similar to that recommended by the House members of the Joint Committee on the Organization of the Congress. Under such a procedure, direct spending targets for several fiscal years could be specified. If the President's budget showed that these targets were exceeded in the prior year or would be exceeded in the current or budget years, the President would be required to analyze the causes of the overage and recommend whether none, some, or all of the overage should be recouped. The Congress could be required to vote either on the President's proposal or on an alternative one. If the goal was merely to restrain direct spending to the currently projected levels, then the current law baseline would constitute the targets. However, such a procedure could also be used as a kind of lookback on the success of any efforts to reduce mandatory spending.

**Transparency.**—Transparency is important because the budget debate is critically important—not because of the numbers in it but because it represents a statement about collective priorities and collective action. In a democracy, the debate about these priorities should be made as understandable as possible. If even reasonably dedicated citizens cannot understand the budget document or the budget debate, there is little accountability.

If the budget debate is to be accessible to the American people—or to any significant subset of the population—consideration will have to be given to simplifying the structure of the budget, streamlining the process, and reducing the number of translations required to get from one part of the process to another. Does the Congress wish to organize the debate by national mission or by agency? If there is a need for both perspectives, how can they be brought together in an understandable way? Discussions about 602(b) allocations and “direct spending” are the stuff of what someone once called “budget process groupies”—not of the evening news of quick explanation.

There must be summary documents, such as the *Budget in Brief*, that explain where money comes from and where it goes. For fiscal years 1996 and 1997, OMB once again included a citizen-oriented document as part of the budget documents. The *Citizen's Guide to the Federal Budget* provided an overview of the budget, highlighting such concepts as the deficit and the debt, and reviewing the President's budget proposals. They did not, however, provide much insight on the long-term implications of current spending policies.

Citizens cannot be expected to feel a stake in the budget debate—a debate that will affect all our lives and our national future—or to accept decisions made by others without basic information. At a minimum citizens need to know how much money the federal government takes in—and how—and on what funds are spent.

#### OVERALL STREAMLINING ISSUES

Each of the criteria or goals are important, and they are related—but they cannot all be maximized in a single process. Trade-offs are necessary. Any review of the budget process comes up against the overarching question: is there just too much process? The feeling that there are too many votes on related issues is, as I noted,

<sup>7</sup> See, *Budget Process: Issues Concerning the 1990 Reconciliation Act* (GAO/AIMD-95-3, October 7, 1994).

<sup>8</sup> See *Budget Policy: Issues in Capping Mandatory Spending* (GAO/AIMD-94-155, July 18, 1994).

in part a function of the way the process was created, of the decision to layer the Budget Committees and the budget process on top of the existing committee and procedural structure of the House and the Senate. The idea was that the budget resolution would define the overall aggregates and the rest of the process would proceed within those aggregates. As I mentioned above, however, especially as the goal of the process shifted to deficit reduction, this distinction became increasingly strained. There are a number of possible responses, but most of them involve considering the relationship of the budget resolution to legislation and of the various committees in the Congress.

Streamlining—making the process take less time—has been the focus of a number of proposals in the past. However, it is in the area that it is especially important to think about the fact that a response to one problem may create another problem. Eliminating parts of the process or changing the cycle will have consequences beyond reducing the number of votes. These may or may not be acceptable, but they should be recognized. I would touch very briefly on three processes: the budget resolution, authorizations, and appropriations.

If the recent pattern of multi-year fiscal policy agreements is to continue, are annual budget resolutions still necessary? It is important to review progress every year, but such a review may not require a complete budget resolution. If, however, annual budget resolutions are to be replaced with biennial budget resolutions, then something like the "lookback" procedure described above could become very important. Without it, there would be no procedure for tracking progress against the previous budget agreement or reconciliation bill.

Multi-year authorizations can provide a longer-term perspective within which appropriations would be determined. Although the need for periodic reauthorizations can provide a window for program revision, there is little reason to reexamine and reauthorize programs more often than they might actually be changed. Of course, multi-year authorizations are already the rule in the nondefense portion of the budget.

Some have suggested that changing the appropriations cycle from annual to biennial could free up time. As I have previously testified before this committee, it is important to differentiate between the length of availability of funds and the timing of the appropriations cycle. Even within the 39 percent of the budget that is on an annual budget cycle, not all appropriations are for 1-year funds. The appropriations subcommittees have been able—even within an annual appropriations cycle—to provide 1-year, multi-year, or no-year money as they have thought appropriate for the program or agency at issue. Annual appropriations have long been a basic means of exerting and enforcing congressional policy. A 2-year appropriations cycle would change the nature of that control. It is also unclear how much time it would save.

In the end, streamlining or reducing the amount of time spent on apparently repetitive votes will require decisions about which votes are no longer necessary. That, in turn, is likely to require decisions about the relationship between discretionary and mandatory spending, between various committees, and about the nature and style of congressional control over the budget and appropriations.

#### SUMMARY AND CONCLUSIONS

The budget process is the source of a great deal of frustration. The public finds it hard to understand. Members of the Congress complain that it is time-consuming and duplicative, requiring frequent votes on the same thing. And, too often, the results are not what was expected or desired.

It is inevitable that, given the nature of today's budget challenge, there will be frustration. It is important, however, to try to separate frustration with process from frustration over policy. To bring the deficit down requires hard decisions about what government will and will not do. A process may facilitate the debate, but it cannot make the decision.

In considering whether and how to redesign the budget process, therefore, it is important to look beyond those frustrations tied directly to the need to bring down the federal deficit. The budget process serves a wider purpose. It is, in a real sense, the process for dealing with competing claims and setting priorities.

The budget process should offer the Congress the means to set overall policy and to make decisions about relative priorities among missions or claims. In a democracy this process should be understandable to the interested citizen and it should offer that citizen some accountability. I have suggested that these overall goals are advanced by a process that: provides a long-term focus; provides information and structure to focus on important macro trade-offs; provides information necessary to make trade-offs between mission areas and between different governmental tools; is enforceable in that it provides for control and accountability; and is transparent.

The apparently never-ending and repetitive nature of the budget process is in large part a function of the way it was created. A new process to provide an overall view was layered on top of the existing structures and processes by which the micro decisions are made in the Congress. Any attempt to streamline or "simplify" the process must consider the relationship between the goal of simplicity and the existing decision structure in the Congress.

In addition, I have suggested that the Congress might want to consider the creation of a lookback procedure by which it would periodically look back at progress in reducing the deficit. Such a lookback would compare the current CBO deficit projections to those projected at the time of a prior deficit reduction agreement and/or the most recent reconciliation legislation and analyze the reasons for any difference. For a difference exceeding a predetermined amount, the Congress would decide explicitly—by voting—whether to accept the slippage or to act to bring the deficit path closer to the original goal by recouping some or all of this slippage. Although one could argue that each year's budget resolution implicitly accepts or rejects changes in the deficit outlook, it does not require an explicit consideration and decision. Adoption of the requirement for such explicit consideration would provide members who make difficult choices in reconciliation an additional opportunity to ensure that the deficit path they voted for will, in fact, materialize.

Mr. Chairman, no budget process is easy to design or to live with. I would be happy to answer any questions you or your colleagues may have and we stand ready to work with you as you consider whether changes in the budget process are necessary and, if so, their design.

#### ATTACHMENT 1: RELATED GAO PRODUCTS

Correspondence to Chairman Horn, Information on Reprogramming Authority and Trust Funds (GAO/AIMD-96-102R, June 7, 1996)

Correspondence to Chairman Kasich, Budgeting for Federal Insurance (GAO/AIMD-96-73R, March 22, 1996)

BUDGET ISSUES: Earmarking in the Federal Government (GAO/AIMD-95-216FS, August 1, 1995)

BUDGET PROCESS: History and Future Directions (GAO/T-AIMD-95-214, July 13, 1995)

BUDGET STRUCTURE: Providing an Investment Focus in the Federal Budget (GAO/T-AIMD-95-178, June 29, 1995)

Correspondence to Chairman Wolf, Transportation Trust Funds (GAO/AIMD-95-95R, March 15, 1995)

BUDGET PROCESS: Issues Concerning the 1990 Reconciliation Act (GAO/AIMD-95-3, October 7, 1994)

BUDGET POLICY: Issues in Capping Mandatory Spending (GAO/AIMD-94-155, July 18, 1994)

BUDGET PROCESS: Biennial Budgeting for the Federal Government (GAO/T-AIMD-94-112, April 28, 1994)

BUDGET PROCESS: Some Reforms Offer Promise (GAO/T-AIMD-94-86, March 2, 1994)

BUDGET PROCESS: Investment Budgeting for the Federal Government (GAO/T-AIMD-94-54, November 9, 1993)

BUDGET ISSUES: Incorporating an Investment Component in the Federal Budget (GAO/AIMD-94-40, November 9, 1993)

Correspondence to Chairmen and Ranking Members of House and Senate Committee on the Budget Committees and Chairman of former House Committee on Government Operations (B-247667, May 19, 1993)

Mr. HOBSON. Thank you. I think we will refrain from our questions until we hear from Mr. Blum.

#### STATEMENT OF JAMES L. BLUM, DEPUTY DIRECTOR, CONGRESSIONAL BUDGET OFFICE

Mr. BLUM. Thank you, Mr. Chairman, Mr. Sabo, members of the Committee. I appreciate the opportunity to meet with you this morning to talk about the budget process. It is not the most exciting subject, but I think, as Dr. Irving has indicated, that it certainly is an important one in terms of the policy issues that are involved and the decisions that have to be made.

The overall message of my prepared statement which I will submit for the record with your permission, Mr. Chairman, is that the budget process is working reasonably well as a framework for making and enforcing budgetary decisions. Most of the complaints about the budget process—and I recognize that there are many complaints—stem largely, I believe, from political disagreements over budget policies and outcomes that the process cannot and probably should not control in the absence of broad, political agreement.

Dr. Irving has sketched the evolution of the process, what we are working with today, and how it began with the passage of the 1974 Congressional Budget Act, and I would certainly second her observation: that this was a very important step for the Congress. It gave the Congress for the first time an opportunity to view the budget as a whole and to vote each year on what it considers to be the appropriate levels for revenue, spending, and the resulting deficit or surplus. Before the 1974 Budget Act, only the President was in a position to take an overall view of the budget.

To accomplish this purpose, of course, the budget committees were established to take that overall view for the Congress and to prepare a budget plan each year that would serve as the coordinating and disciplinary device for the other parts of the Congress, the other committees as they fulfilled their role in the budget process. The Congressional Budget Office was established at the same time to provide technical support to the budget committees and to the other committees that have a role to play in the budget process.

Since the 1974 act has been in place, of course, a number of changes have been made. One of the most important came in 1981. That did not require so much a change in law as a change in practice. It took the reconciliation process, which had been included in the original act but at a much later stage, moved it forward, and made it a very powerful tool for expediting action on changes in spending and revenue laws to make them conform to the budgetary policies that the Congress desired as part of the annual budget resolution.

The Deficit Control Act of 1985 was another attempt to increase the control of the Congress over the budget outcomes. This particular reform, however, proved unsuccessful. It focused on trying to achieve specific deficit outcomes that it turned out not to be able to obtain, largely because the resulting deficits each year are to a very great extent beyond the powers of the Congress or the Government to control directly. They are affected by the way in which the economy performs, as well as other matters.

I would second Dr. Irving's observation, though, that the reforms that were enacted in 1990 as part of the Budget Enforcement Act have proved to be quite successful, but those particular reforms or procedures are only effective through fiscal year 1998. Clearly, an important step that this committee would probably want to take would be to extend those procedures for as long as we are struggling to reduce the deficit and achieve budgetary balance.

After more than 20 years of experience with the Congressional Budget Act, some tentative conclusions are beginning to emerge. First, the act created a procedural framework for the Congress that adapted well to its dispersed power structure and the different



roles played by various committees. Although the current system may not be perfect, it does give the Congress the means to craft overall budgetary policies that are in accord with the preferences of the majority.

Second, although the process provides the means for the Congress to advance its budgetary objectives, it is limited in what it can accomplish alone. It cannot substitute for specific policy decisions that are necessary to produce particular outcomes. At best the process can provide opportunities for the Congress to make informed decisions and not stand in the way once those decisions have been made.

Third, budget enforcement procedures tend to be more successful when they focus on things that can be controlled directly. Limits on discretionary appropriations and the pay-as-you-go requirement for new legislation affecting mandatory spending and revenues are working because these are things that the Congress can control. But fixed deficit targets do not work because events beyond the direct control of the Congress affect the outcome; for example, the economy not performing as assumed for the annual budget plans.

And finally, changes in the budget process do not always work as intended and typically have unintended consequences. For example, the budget process is criticized for being excessively complex, but the complexities have evolved largely to exert more budgetary discipline and control. And although a more streamlined process may be a worthy goal, it might come at the cost of losing some of the discipline necessary to achieve deficit reductions.

My prepared statement discusses some of the major criticisms of the budget process and selected reform proposals and I will not go into those at this point. Needless to say, the Congressional Budget Office, by virtue of its nonpartisan status, is a cautious institution, so it should come as no surprise that we would be cautious about recommending or supporting major proposals for reforming the budget process. In general, we believe that the process as it has evolved over the last 20 years has performed quite well in its task of allowing a consensus to work its will in setting budget policy. Although the process has been modified to force policy outcomes in the absence of underlying political senses, those changes typically have failed.

That concludes my oral statement, Mr. Chairman, and we will be glad to answer any questions that members of the committee might have.

[The prepared statement of James Blum follows:]

PREPARED STATEMENT OF JAMES L. BLUM, DEPUTY DIRECTOR, CONGRESSIONAL  
BUDGET OFFICE

Chairman Kasich and Members of the Committee, thank you for inviting me to testify today on the federal budget process. The overall message of my testimony is that the budget process is working reasonably well as a framework for making and enforcing budgetary decisions. Evidence often cited as proof of the failure of the budget process in fact reflects political disagreement over particular budget policies or outcomes that the process cannot—and probably should not—control in the absence of broad political agreement. With this overall theme in mind, I will briefly review the evolution of the federal budget process, discuss some tentative lessons that can be drawn from recent budgeting experience, and assess some of the recurring criticisms of the process and related reform proposals.

## THE BUDGET PROCESS WORKS

Fundamentally, the budget process works well. Although the record of Presidential vetoes of major budget measures last year and continued budgetary conflict this year would seem ample cause for a less enthusiastic endorsement, those difficulties and other evidence of the failure of the budget process involve matters beyond the control of the process. In recent years, the budget process has not only accomplished the basic purposes for which it was created, it has also displayed certain virtues that should be preserved in any reform effort.

Last year, for example, the Congress adopted a historic budget resolution recommending a balanced budget by fiscal year 2002. It then proceeded, without inordinate delay, to develop and approve reconciliation legislation, appropriation measures, welfare reform legislation, and other landmark measures that were consistent with the resolution and that the Congressional Budget Office projected would achieve the resolution's balanced budget goal. The Congress is on a similar budgetary track this year: it has approved another balanced budget resolution and is proceeding with appropriation and reconciliation measures to carry it out. Thus, using existing procedures, the Congress has been able to accomplish the most fundamental and perhaps the most important function of the budget process—to establish and enforce a comprehensive budget plan for the federal government.

Critics of the budget process point to different evidence. Last winter, the President vetoed the reconciliation and welfare reform measures that included most of the policy changes necessary to follow through on the budget resolution's recommendation for a balanced budget. The Congress and the President were unable to reach final agreement on funding levels for major federal programs for the current fiscal year until this past spring, when the fiscal year was already half over. That disagreement led to two partial shutdowns of the federal government, required the Congress to enact a record number of continuing appropriation acts, and delayed essential legislation increasing the limit on the public debt. This year, critics say, is shaping up as a repeat of last year's failure.

Yet much of the apparent failure of the budget process over the past year or so actually has been a product of political disagreement between the President and the Congress over budget priorities. That disagreement has not been the result of inherent flaws in the budget process. The budget process is not designed to force certain outcomes without broad political agreement or, conversely, to obstruct those outcomes when agreement has been reached.

Rather, the budget process provides a framework of rules and procedures that generally serves as a conduit for majority rule. The process establishes a structure in both the executive and legislative branches for disseminating budget information, and for developing and enforcing budget plans for the federal government. In the Congress, it also provides a means of coordinating the actions of committees. More expansive, policy-oriented goals for the budget process, without political agreement on how to reach those goals, ask more of any budget process than can be delivered.

## HOW THE FEDERAL BUDGET PROCESS EVOLVED

The modern budget process is an amalgam of procedures and practices set forth in various statutes and in Congressional rules of procedure. Principally, however, it is established in two laws, as amended—the Budget and Accounting Act of 1921 and the Congressional Budget and Impoundment Control Act of 1974. The former provides for an executive budget process centered around the annual submission of a budget proposal by the President. The latter provides for a Congressional budget process centered around adopting and enforcing a concurrent resolution on the budget by the Congress.

The basic accounting rules generally followed in the modern budget process are set forth in the 1967 *Report of the President's Commission on Budget Concepts*. Although the report has no legal status, it remains to this day the most authoritative statement on federal budgetary accounting concepts and principles. The commission's most important recommendation was for a comprehensive budget with few exclusions. It recommended that the budget generally cover the full range of federal activities and that even borderline activities and transactions be covered unless there were compelling reasons to exclude them.

The basic purposes of each of the major budget statutes correspond to the constitutional roles and responsibilities of the respective branches of government to which they apply. The Budget and Accounting Act of 1921 requires the President to submit an annual budget setting forth his proposals in detail for the upcoming fiscal year. Because under the Constitution the President heads the executive branch, the act establishes procedures to ensure that the President's priorities prevail in his annual budgetary submissions.

The Congressional Budget Act of 1974 establishes a Congressional budget process for the Congress to set forth its own budget. That law was enacted both in response to the frustration generated by the fragmented nature of Congressional spending and revenue decisions and as a way to enable the Congress to carry out its constitutional budgetary responsibilities more effectively. The law also established new procedures to control impoundments of appropriated funds by the President.

The Congressional Budget Act established a framework within which the Congress could establish and enforce its own budget priorities, and against which it could judge the budget priorities of the President. Thus, it created the House and Senate Budget Committees to coordinate Congressional action on the budget, and established the Congressional Budget Office to provide the Congress with non-partisan information and analysis on the budget and the economy.

Because power in the Congress is dispersed, the Congressional Budget Act established a procedural mechanism for bringing majorities in the House and Senate into agreement on a budget plan. It did so by providing for the Congress to adopt annually a broad, nonspecific concurrent resolution on the budget. The budget resolution is not signed into law; it serves only as a guideline for Congressional action on actual legislation on spending, revenues, or the debt limit.

Different majorities in the Congress have used the budget resolution for different policy goals. Budget resolutions have recommended both tax cuts and increases, entitlement cuts and expansions, and annual appropriation cuts and increases. Moreover, majorities in the Congress have also modified budget resolution procedures to accomplish their policy objectives. For example, a change in budget resolution practices in 1981 converted the reconciliation process from a limited, seldom-used procedure to a potent new tool for conforming permanent spending and revenue law to the priorities established in the budget resolution. More recently, budget resolutions have included procedures, such as so-called reserve funds, that permit the Congress to consider certain deficit-neutral policy initiatives.

The most significant recent changes in the budget process have been made over the past decade or so to reduce and control the deficit. Initially, those changes met with limited success, in part because they may have asked more of the budget process than it could reasonably deliver. More recent revisions in those procedures seem to have put in place deficit control procedures that the budget process can more realistically accommodate.

In 1985, the Balanced Budget and Emergency Deficit Control Act became law. Known as the Gramm-Rudman-Hollings Act, or GRH, it established a firm schedule of declining deficit targets that called for eliminating the deficit by fiscal year 1991. It established a procedure—known as sequestration—to make uniform percentage reductions in spending that would be triggered if the targets were not met. Moreover, it amended the Congressional Budget Act of 1974 to ensure that Congressional action on the budget resolution would be consistent with the new statutory deficit targets.

In the years that followed, budget resolutions were adopted that met the deficit targets, and spending and revenue legislation was enacted that was projected to meet the targets. Nonetheless, actual deficits generally failed to reach the targeted levels. For example, the actual deficit for fiscal year 1991, the year originally set for a balanced budget, was \$270 billion. Although different reasons are cited for the failure of fixed deficit targets—including reliance on excessively optimistic economic and budget estimates—a more fundamental shortcoming was that the prevailing political consensus did not support the policies needed to attain the targets.

In the fall of 1990, the Congress and the President amended the GRH act and the Congressional Budget Act to put in place procedures that established a new philosophy of deficit control for the budget process. Set forth in the Budget Enforcement Act of 1990 (BEA), those new procedures no longer tied a balanced budget goal to a fixed deficit target. Instead, the BEA established annual limits on total discretionary appropriations and a deficit-limiting pay-as-you-go (PAYGO) requirement for mandatory spending and revenue legislation through fiscal year 1995. If discretionary appropriations were enacted that exceeded annual limits, or if mandatory spending or revenue legislation was enacted that caused a net increase in the deficit for a fiscal year, a sequestration would occur to eliminate the excess amount or deficit increase. The discretionary spending limits and PAYGO requirement were extended through 1998 in the Omnibus Budget Reconciliation Act of 1993.

Unlike the fixed deficit targets under the GRH act, the discretionary spending limits and PAYGO requirement have been met. The limits and the PAYGO requirement have been honored in each fiscal year, and they have generally been effective in deterring legislation that would increase the deficit.

The BEA has been criticized for not going far enough. Indeed, during the years immediately following the 1990 budget agreement, the deficit increased signifi-

cantly. However, legislation in violation of the BEA did not cause that increase. Rather, it stemmed from worse-than-anticipated economic performance and higher-than-expected health care costs, which drove down revenues under current law and drove up spending under current law. Those are some of the same factors that made relying on fixed deficit targets enforced by sequestration unsustainable and led to the BEA procedures now in effect. What critics really mean is that, in their view, the budget agreements that the BEA helped to carry out were not ambitious enough. The BEA procedures do not force sterner agreements to be forged, although they do not stand in the way of such agreements.

#### SOME LESSONS FROM RECENT EXPERIENCE

After more than 20 years of experience with the Congressional Budget Act, some tentative conclusions are beginning to emerge. First, the act created an infrastructure for budgeting that has proved to be of lasting value. The institutional capacity and budget planning and enforcement mechanisms put in place under the act, as modified over the years, ensure that the Congress can develop and carry out a coordinated budgetary and fiscal policy plan. Although the current system may not be perfect, the Congress possesses the tools to craft overall budget policies that are in accord with the preferences of a majority. In short, the essential elements for effective budget control by the Congress are in place.

Second, although the budget process provides the means for the Congress to advance its budgetary objectives, the process alone is limited in what it can accomplish. The budget process can provide policymakers with information that relates to the decisions they face. It can permit extensive participation in making those decisions, and it can constrain decisions to prevent some undesired outcomes. However, the process alone cannot substitute for the specific policy decisions necessary to produce a particular outcome. Budgeting has no magical powers: at best, it can provide opportunities for the Congress to make informed decisions and not stand in the way once those decisions have been made.

Third, budget enforcement procedures tend to be more successful when they focus on those things that can be controlled directly. About two-thirds of total spending (so-called mandatory spending) and most revenues flow from permanent laws, which in many cases are adjusted automatically for changes in economic activity and other factors that fluctuate and are difficult to predict. Moreover, mandatory spending—especially for health care—is the fastest growing category of federal expenditure.

The GRH act established fixed deficit targets significantly below baseline levels. But it did so before a political consensus was reached on the changes in laws governing mandatory spending and revenues that were necessary to reach those targets. Thus, it created a conflict between the budget process and current budget policies that forced policymakers to choose between the imperatives of the process and their policy preferences. Policymakers chose initially to revise the fixed targets and then later to abandon them instead of making policy changes of the magnitude required.

The BEA avoided that tension by establishing procedures to enforce specific deficit reduction agreements and to ensure that new budgetary legislation would be consistent with those agreements. It did so by establishing controls on annual appropriations through the discretionary spending limits and on legislation affecting entitlements and taxes through the deficit-neutrality provisions of the act. The relative success of the BEA stems in part from its confinement to controllable legislative actions. That strength is particularly apparent in the case of discretionary spending.

Nevertheless, the philosophy of deficit control underlying the BEA has certain drawbacks. For example, by focusing only on controlling new legislation, the BEA does not force the Congress to enact measures to change current policies. Entitlements can still expand because of changes in population, inflation, and utilization rates that occur under existing law. However, given the experience with fixed deficit targets, it is unclear whether procedural devices can force policymakers to make changes in policies that are at odds with the preferences of a majority. Also, dividing the budget into separate categories for purposes of budget enforcement may limit certain budgetary options, such as paying for a tax cut in discretionary spending.

Finally, change in the budget rarely works out as envisioned and typically carries unintended consequences. For example, the GRH act and the BEA have been criticized for adding excessive complexity to the budget process. Yet they are complex largely because they are intended to improve budget discipline and ensure that the President carries out budget enforcement statutes in line with Congressional intent. Although a simpler, more streamlined budget process may be a worthy goal, it might come at the cost of the budgetary discipline necessary to reduce the deficit.

Thus, in fashioning an effective budget process, it may not be possible or even advisable to accommodate all such worthy goals.

#### MAJOR CRITICISMS AND SELECTED REFORM PROPOSALS

Although the budget process generally works well, many policymakers find it frustrating and difficult. Over the years, new budget mechanisms and enforcement procedures, such as those added by the Congressional Budget Act of 1974 and the BEA, have been combined with long-standing budgetary practices and traditions in the pursuit of various goals.

Critics maintain that as a result of those and other developments, the budget process has become excessively complex, time-consuming, and rule-bound. They argue further that the Congress seems consumed by its annual action on the budget and has sufficient time to complete its scheduled budgetary actions or to conduct other, equally important legislative business. Critics also contend that despite the seeming excess of budgetary rules and procedures, controls in the budget process for mandatory spending are inadequate. Some also maintain that current budget accounting rules and practices, which date back nearly 30 years, should be updated.

Fewer budget rules, more simplicity, a less crowded budgetary agenda, and other, similar goals for the budget process are certainly desirable, but so are lower deficits. Many of the procedures that are criticized as too complex, such as PAYGO requirements, discretionary spending controls, and accompanying sequestration reports, have also succeeded in controlling the deficit.

Given current efforts to eliminate the deficit, those rules may eventually outlive their usefulness. That time, however, might not come as soon as many people would like, even if the current effort to balance the budget by 2002 is successful. Pressures on the budget that will surface early in the next century with the retirement of the baby-boom generation may make it at least as difficult to reduce the deficit in the future as it is to now.

Several proposals have been offered in recent years to address criticisms of the budget process. I will discuss a few of the major ones.

#### *A joint budget resolution*

Some policymakers advocate converting the budget resolution to a joint budget resolution that must be enacted into law. They point to last year as an example of the need for this reform. It is better, they say, to use the budget resolution as a vehicle to force the President and the Congress to reach broad agreement early in the year to promote more timely action on subsequent budget legislation and avoid conflicts over individual spending and revenue measures.

It is unclear whether agreement between the President and Congress on budgetary matters will be more forthcoming if the budget resolution becomes the formal vehicle for its implementation. However, such a change would probably alter the fundamental purpose of the budget resolution as a means for the Congress to establish its own budget priorities. Last year, because the Congress did not have to wait for the President to begin its budget process, it could make significant progress on annual appropriation measures and other bills.

Harder to gauge is whether momentum toward political agreement with the President may have been created as the Congress proceeded with its own budget process. Would the President have modified his budget proposal last year in the same way without the steady drumbeat of budgetary legislation coming from the Congress? Did the legislative momentum created last year by the budget resolution and other legislation move the President closer to the Congress' position, even if ultimate agreement still has not been reached?

#### *Biennial budgeting*

Some people believe that biennial budgeting would relieve part of the budgetary pressure on policymakers. Under biennial budgeting, some or all of the annual budget cycle would be converted to a two-year cycle, with budget resolutions, appropriation bills, authorization measures, and other budgetary legislation (or some combination of those measures) considered only every other year.

The impact of biennial budgeting would probably vary depending on the types of measures to which it was applied. Some proposals would convert the budget resolution to a two-year cycle and make it a joint resolution. In that case, the Congress and the President would have to weigh the consequences of setting overall budget policy only every other year. Less frequent review of the budget could lead to missed opportunities. Because budget projections and estimates can change dramatically in relatively short periods, reviewing budget policies annually can be helpful, even if those policies cover multiyear periods. Also, until the long-range deficit picture im-

proves, it may be advisable to revisit budget policies more rather than less frequently.

Biennial budgeting might have its greatest impact on the annual appropriation process. Proponents of biennial appropriations contend that appropriating every other year would have payoffs in improved planning for federal agencies and more time for Congressional oversight. Opponents are concerned that biennial appropriations might diminish the effectiveness of Congressional control of spending and simply necessitate supplemental appropriations or other adjustments in the off-year.

#### *A cap on mandatory spending*

The deficit will probably not be brought under control without significantly reducing the rate of growth in mandatory spending—principally for Medicare and Medicaid. Consequently, control of mandatory spending represents one of the greatest challenges facing the budget process. With the baby-boom generation's retirement beginning only 15 years from now, dealing with growth in entitlements will become even more critical.

In late 1991, it began to be apparent that unanticipated mandatory spending increases under current law would erode much of the savings from the 1990 budget agreement. As a result, proposals surfaced for some type of cap on mandatory spending similar to the limits on discretionary spending that had proved so successful under the BEA.

However, mandatory spending caps are likely to suffer from the same problem that affected fixed deficit targets under the GRH act. They establish spending targets for entitlement programs that are at odds in some cases with the underlying law for those programs. At some point, a conflict is created between the requirements of the process and the underlying program in which reductions must be made. Furthermore, in the case of entitlement law, the process requirements may also conflict with legal commitments that are enforceable by the courts. Spending limits for appropriations work because the spending is not encumbered by such problems and is generally provided anew each year.

If mandatory caps were enforced by sequestration, a further problem would be that spending for Medicare and Medicaid—two of the largest and fastest growing entitlement programs—outpaces spending for most other entitlements. Large increases in those health care entitlements could trigger massive reductions in other programs, even though spending for those other programs may be relatively more controlled.

#### *Budget accounting rules*

Some policymakers advocate changing court budget accounting rules for certain kinds of activities. They maintain, in part, that the cash basis used for recording most federal expenditures does not accurately reflect the costs of certain programs. In response to such concerns, the Federal Credit Reform Act of 1990 changed the accounting treatment of federal credit programs from a cash basis to a measure of the estimated subsidy cost.

One oft-cited proposal would create a capital budget, under which procedures would be established to account for spending on public investment in a different manner than spending on current consumption. The budget process does not distinguish between spending on investments that provide benefits over a number of years and spending on current consumption. Modifying the budget process so that it would make such a distinction might be a useful step. However, depending on its design, a capital budget could lead to a serious loss of budget discipline, particularly if what is considered an investment becomes too broad. With the current focus on long-term economic growth, it is important to differentiate government consumption from public investment, but redefining the budget process to meet that need could be risky.

#### CONCLUSION

Because the present budget process works relatively well does not mean that it is without flaws or that it should not be reevaluated when circumstances change. BEA procedures, including the discretionary spending limits, PAYGO requirement, and associated Congressional enforcement procedures, expire at the end of fiscal year 1998. Clearly, given the success of the BEA, its enforcement regimen should be continued as long as deficit reduction remains a priority.

However, although the budget process now successfully controls new spending and tax actions under BEA procedures, other problems remain. For example, projected increases in existing mandatory spending programs by and large continue to drive future deficits. Moreover, beyond the current budgetary horizon loom the potential deficits associated with the retirement of the baby-boom generation. By the middle

of the next century, the deficits suggested by that demographic trend (if current policies continue) will easily dwarf any deficit experienced or projected to date. The relatively limited future view of the current budget process does not promote action on those potential longer-term deficits. However, there is no procedural device for controlling mandatory spending or dealing with long-term deficits that would substitute for direct changes in programs themselves.

In any event, the basic purposes and limitations of the budget process should be kept in mind as part of any review or reevaluation of it. The budget process generally is intended to allow a consensus to work its will in setting budget policy. Over the years, it has performed that task admirably. When it has been modified to force policy changes without an underlying consensus on those changes, it has failed. Much of the evidence of the apparent failure in the budget process actually reflects disagreements over budget policy. The budget process cannot force a consensus on budget policy when one does not exist, and it should not be modified to try to do so.

Mr. HOBSON. We will now entertain any questions from the members that they have. Mr. Hoke.

Mr. HOKE. Thank you, Mr. Chairman. Could you tell me in summary what the fundamental and primary benefit was of the 1974 act in the way that it has changed the budget process from pre-1974 to today?

Mr. BLUM. I think we both pointed out that before 1974 the Congress did not have a way of considering the budget in its entirety and voicing its opinion on overall fiscal policy for the Federal Government. Only the President was in a position to do that with his annual budget proposals. The reason is that when the President's budget came up at that time—

Mr. HOKE. But the President was not even required to do that, I think, until the 1920's; is that correct?

Mr. BLUM. Until the 1920's, that's true. The first important budgetary reform of this century was the 1921 Budget and Accounting Act. But before 1974 the way the process worked, the President's budget was dispersed among all the committees that had jurisdiction over the various proposals. The discretionary spending proposal went off to the appropriation committees and they did their thing. Any tax proposal went to the Ways and Means and the Finance Committees. Any changes to be made in the so-called entitlement or permanent spending laws went off to the other committees that had those jurisdictions. And there was no means by which the Congress could act in a coordinated fashion to affect all of the individual pieces that it was going to act on during the course of the year.

Ms. IRVING. In 1921, when the President was given the authority to send the single executive budget, the auditing function was taken out of Treasury and GAO was established as a Congressional agency. In addition, it is in the early 1920's you see the appropriations committees formalized; they served as a kind of control over the spending side of the budget since at that point most spending went through the appropriations committees. Not all spending, the very first spending bill in Congress in 1789 includes a permanent definite for interest on the debt. But fundamentally in the 1920's, 1930's, 1940's, 1950's most spending went through the appropriations committees—even though Social Security was created in the 1930's.

Mr. HOKE. So with the 1974 act has its greatest benefit been this creation of the umbrella or is it in other words something that gives you an accounting of handle on the \$1.5 trillion Federal budg-

et or is it this allocation in the 602(b)s of specific dollar amounts to the various committees?

Ms. IRVING. I do not know whether we would agree on all of this, but there are a number of things I would point to in the 1974 act. One is this idea of looking at the budget as a whole and therefore being able to say to the President, no, this is what we want. A second is a creation of your own analytic capability.

Prior to 1974 if a member of Congress had a bill and wanted to know what it would cost, he/she sent it to OMB and if the President liked the bill you got your analysis back really fast. If the President did not like the bill, it was amazing how busy OMB was and they could not get around to doing anything. Now you send it to CBO and Mr. Blum and his staff respond. So you have your own analytic capability. We sort of take that for granted, but I remember the 1970's when OMB would just sit on stuff.

Secondly, I think the functional allocation is something that had promise but has turned out not to be so important. The idea that for the first time you would look at spending by mission no matter what committee it went to—e.g. food stamps shows up in income security not under agriculture—and could make tradeoffs across mission was potentially a big step. But the degree to which those, in fact, translate into the 602(b)s is a little unclear. There is an interesting question about whether you think the functional structure has served as it might have or should serve that way.

Mr. HOKE. If I have time for one more, it would just be this. As I have tried—and we are talking obviously broadly philosophically, I have tried to think about this, the whole appropriations process and where the Budget Committee fits in and the authorizing committees fit in. It seems to me that there is sort of an institutional constipation that may or may not be good or maybe it is what the framers intended. But what would you think of just opining, and I know you are not in the making of recommendations because it is politically so wilder, but it struck me that there is an awful lot of attractiveness to having one committee that says this is how it is going to be divided up between all of the committees that make decisions about how it is spent. But you have got this amount and you are going to have both authority for the policy as well as the spending. In other words, either eliminating the authorizing committees or eliminating the appropriations committee but having a fundamentally different look so that you do not have this three-tiered system where you have got budget, authorizing and appropriating and they are all kind of competing.

Mr. BLUM. Proposals along that line have been made in the past. I mean you are making an apt observation. In effect, the 1974 act did not change any of the previous methods by which the Congress acted on the budget. It just added another layer, which was the budget resolution, to provide the overall coordinating and disciplinary device for the Congress. Whether or not those original or separate roles still need to be played is probably beyond the call of either Ms. Irving or myself to make.

Mr. HOBSON. Thank you. Mr. Sabo.

Mr. SABO. Thank you, Mr. Chairman. Thank you for your testimony. Let me make some observations and then I have a question. One, I always hear about the great complexity of the Budget Act.



My view of it is that 99 percent of it is fairly simple. We set discretionary gaps. We set targets for reconciliation and that is 99 percent of it and that is not all that complicated. We get into lots of subtleties and lots of things but they do not really relate to the guts of the act. So 99 percent of it you can lay out in one sheet fairly simply and I think we make much too much of the complexity which simply is not there as it relates to most points unless you get some complex point of order.

I would make the other observation that while our discretionary caps have worked that there is a certain degree of complexity there because we have those caps set as outlay caps while what appropriations does is appropriate budget authority every year. And the Congress does control budget authority but outlays are governed in part by what we do and part by how administrations administer programs and that gets us into all these complexities of scoring decisions. If our caps were simply budget authority rather than outlays that would simplify things immensely. I do not expect that we will ever get there, but I think it is important for members to understand that difference and that it does exist.

The other observation I have is that I advocated a variety of budget changes over the years and when I look back we are probably fortunate that none of them passed. I find in the Legislative Branch we think we want to become like presidents but we are very different and we have very different strengths and I think we always have to remember that. The President has a bully pulpit and the President's budget is whatever he says it is. And he gathers much greater media attention for what he announces than ever comes out of the legislative body. The great strengths of legislative bodies are that they can take some time in developing policies. The President's is what he says it is. For Congress, it is ultimately what passes. And you need some flexibility as you take advantage of time to work through issues. Over a period of months you find trouble spots in the budget process. You find trouble spots in the authorizing process. You find trouble spots in the appropriating process and you eventually work through them. And hopefully, the same process should work in the reconciliation process.

But people who want neat, little boxes to take care of what Congress should do, I always think go fundamentally against what a legislative body is about. But I am sort of curious as we look at history, the Budget Act that was passed in 1974 but wasn't that about the same time Congress also passed indexation?

Mr. BLUM. About that time.

Mr. SABO. On benefits, taxes came a little later in 1981. I am not sure to the degree that when we moved to indexation to what degree that was thought of in the context of passage of the Budget Act. Because before indexation went through, increased benefits went through the specific action of Congress every year. And I don't know to what degree those were thought of together when the Budget Act was passed. So it was sort of a fundamental policy change that happened at the same time the Budget Act was passed.

And the other thing that happened from mid-1970's on or so is that was about when we started having the rapid escalation of health care costs in this country. In this area again the additional

expenditures were built into how the law was structured on Medicaid, the sharing of what States did, and in Medicaid by automatic reimbursement growth formulas built into the system. And I do not know that Congress in 1974 could have foreseen that, but I am curious to what degree they considered the relationship for moving from increasing benefits by law to moving to indexation in coordination with what they were doing with the Budget Act in 1974? Because as I understand it, part of the motivation for creation of the Budget Act in 1974 was the increasing role of both contract authority and entitlements as part of the Federal budget.

Mr. BLUM. Mr. Sabo, that is correct. There was increasing concern in the Congress at that time about the growing importance of what was then termed uncontrollable spending; that is, spending that resulted from laws other than the annual appropriations acts. But most of the indexation for the Social Security benefits was enacted before the 1974 Congressional Budget Act and, of course, Medicare was enacted in the mid-1960's. A lot of the big expansion of these so-called uncontrolled or mandatory spending programs occurred before the 1974 act.

So I think you are correct in saying that part of the impetus for the 1974 action by the Congress was an attempt to increase its control over the budget. It was also a reaction at the time to the impounding of funds by the President. That resulted in the Impoundment Control Act addition to the Congressional Budget Act, the Title X of the Congressional Budget Act. So I think that at the time the feeling was that the balance of power between the Congress and the President had shifted too much in the President's favor in terms of the control over the budget. The 1974 act was the Congress' response, an attempt to bring more balance back and to restore the power of the purse to the Congress.

Mr. HOBSON. Mr. Bass.

Mr. BASS. Thank you very much, Mr. Chairman. I have one quick question, Mr. Blum and Ms. Irving. There has been a lot of discussion over the past few years about changing the process of establishing a budget from establishing a concurrent resolution to possibly having a joint resolution early on in the cycle which would, of course, require the President's participation. The idea being that you have it out early, you establish a framework of an agreement between both branches and then the process of establishing the budget goes forward from there without controversy with respect to the big picture. I was wondering if you had any comments with respect to the advantages or disadvantages of Congress considering such a course of action?

Mr. BLUM. Yes, Mr. Bass. I do address that to some extent in prepared statement. The proposal has been on the table for a number of years and I think you spoke eloquently about its advantage. It would bring the President into the process at a much earlier stage in order to reach agreement on the major parts of the budget, the total levels of revenue spending, some of the major divisions, and the spending, for example. It is not clear whether such an early agreement, in fact, could be reached. Last year, for example, at the beginning of the 104th Congress, the President's budget did not contemplate trying to achieve a balanced budget at any point in the future. And it was the Congress that took the initiative. We

ended up in a very long struggle which I would say that the Congress won by getting the President to agree that the appropriate fiscal goal was to reach a budgetary balance in a relatively short time period. I do not know how that process would have evolved last year under a joint resolution procedure.

One might argue, that it was the steady drum beat of the Congress by passing a budget resolution and then starting to act on the appropriations and reconciliation measures, that really led eventually to the policy agreement that was reached with the President.

Ms. IRVING. I think I would agree with everything Mr. Blum said. It in some sense gives up on part of what the 1974 act presented which was the right for Congress to say, "No our fiscal policy is this; now let us fight about how to get there."

Mr. BASS. Thank you.

Mr. HOBSON. Thank you, Mr. Bass. Mr. Stenholm.

Mr. STENHOLM. Three general areas for questioning. One in the area of enforcement of targets. Both of you, GAO and CBO, have been philosophically opposed to setting fixed targets for entitlement spending and all of the difficulties around doing that. But is there such a thing as a so-called untouchable or a so-called uncontrollable rather expenditure in the budget of the United States? And even though you are opposed to it, would you have some guidance to the Congress if we chose to put a cap on entitlement spending that would work as well as the discretionary caps would work? How would you do it?

Ms. IRVING. First of all, I think the only "untouchable" thing in the Federal budget is probably interest on the Federal debt and I would be loathe to suggest it could be tinkered with directly. I do not think I would go so far as to say that GAO is philosophically opposed to setting fixed targets for entitlement. What we sought to show in a report we issued two years ago is that you cannot translate the discretionary caps unchanged to the entitlement side of the ledger. What I will call the "look mom, no hands" version of the caps; that is, to set a number and assume it will be self-executing will not work for entitlement programs.

Fundamentally the amount of money that goes out for an entitlement program is a function of the benefit structure as it intersects the number of people eligible and what the benefit formula says they are eligible for. Therefore the way to change that path is to change the design of the program.

I would break my answer about targets into several pieces. First, if by target you mean something other than a rigid cap which somehow is expected to be self-enforcing, then I do not think it is plausible to object to the idea that Congress could seek to say we would like to have the path for Medicare or the path for entitlement X look like this. In other words, it makes sense to say the path looks like this now; we would like it to look like that. Then Congress could specify year-by-year targets and issue reconciliation instructions to the legislative committee directing them to redesign the program such that it matches the desired path.

Furthermore, we have suggested that if you do that, you need some sort of look-back procedure so you can monitor your progress. This is actually an adaptation of an idea that former CBO director Reischauer had made about the totals where you say this is the

path we would like to be on. How are we doing? You cannot do that every year because you do not have actuals.

Now if you wanted instead to have a specific cap as either an enforcement mechanism or because you have given up on redesigning the program, you have to provide a fair amount of detail on exactly how it is you expect the Executive Branch to meet the target. Because if you do not redesign the program, you cannot say, "thou shalt mail out no more Social Security checks" or "thou shalt not pay for non-fatal heart attacks" after a set dollar limit has been reached. I do not think you can expect HHS to unilaterally get away with changing reimbursement rates in order to achieve a set spending limit.

So, if you wanted to have that target have a fall-back enforcement, you are going to need to write into law what that is, in which case, in fact, you have redesigned the program.

Mr. STENHOLM. Ten years scorekeeping, again maybe misspoke your words as saying you were philosophically opposed. I have not noticed much help coming from CBO or GAO for those of us who have tried to put entitlement caps. We have never had any enthusiastic support. Maybe I misread that. But 10 years scorekeeping admittedly it is very difficult to look 10 years ahead. But one of the reasons why in the coalition budget this year we suggested just this avenue is that we have noticed it has been very convenient either for those that wish to spend more to conveniently put the big cost of the spending outside the window of the estimation or to those who wish to cut taxes to conveniently put the true cost of the cutting of taxes in the out years in which it does not show up on the scorecard. Any comment here?

Mr. BLUM. Mr. Stenholm, we are actually moving in that direction. As you notice this year in our annual report to the budget committees, we are now using a 10-year framework for making our baseline budget projections we are putting in place, the where-withal to make those kinds of estimates. We are now doing what we did last year under the 1996 budget resolution: we did seven year cost estimates relating to the seven year time frame of the budget resolution this year. It is now six years because the last year is still 2002. If the budget resolution was in a 10-year framework that is how we would have to keep score.

Mr. STENHOLM. Is this a positive move or a negative move or neutral in your personal opinions?

Mr. BLUM. I think it is a positive move. The farther out you go the greater the uncertainties involved in the estimates that we struggle to come up with. But you are correct: if the budget window is too narrowly focused there is always the temptation in passing reconciliation legislation or in other legislative matters, to backload the provisions so that the major effect might occur outside of the budget window. Whenever that happens, I would hasten to add we do try to point that out in the cost estimates that we prepare for the specific legislation. I mean when it is obvious that legislation is going to have an effect beyond say, the five-year budget window that we are currently using, we do try to call attention to it.

Mr. STENHOLM. I believe my time has expired.

Chairman KASICH [presiding]. Mr. Shadegg.

Mr. SHADEGG. Thank you, Mr. Chairman. Some argue strongly that the current budget process has a bias towards spending. It seems to me the act was adopted in part over frustration by President Nixon's refusal to spend money. Do either of you see, in fact, looking backward at how the budget process has worked to date, a bias toward spending money?

Mr. BLUM. I do not think that I would characterize the process as having a bias. It seems to me that the process is relatively neutral in that it provides a procedural framework, a set of rules by which the Congress will make its decisions on the budget. If there is a bias towards spending, it may rest with the policy decisions that are made rather than the procedure. I know that there has been a complaint about so-called baseline budgeting, largely with respect to the annual discussion on appropriations, about whether or not there should be an adjustment for inflation as we project out the future levels. That is a legitimate concern.

Clearly, one can look at baseline budgeting in terms of what we are doing compared with last year versus what would it cost to maintain the same level of resources, given the fact that prices do go up. There is no question about it. Over time, of course, having a nominal freeze does mean that there would be a reduction in the services provided to the extent that productivity improvements or other improvements cannot be made to offset those reduction in real resources.

Chairman KASICH. Ms. Irving.

Ms. IRVING. I would, I think, basically agree with Mr. Blum. I think, the process has changed over the last decade. On the discretionary side, it clearly creates a bias to cut spending. The caps are becoming increasingly tight. And on the PAYGO side of the scorecard the process creates a bias against creating anything new but perhaps incentive to tackle what is already existing, except for the target you have set in the budget resolution which is that your fiscal policy is to achieve balance.

Mr. SHADEGG. Maybe the best point is what you just noted and; that is, no incentive to tackle the real problem. The PAYGO system causes us to not adopt any new mandatory spending but to fail to deal with the problem in current entitlement spending.

Ms. IRVING. One of the things I think will be interesting to watch is what happens as the discretionary caps become tighter—and a nominal dollar freeze is going to become increasingly hard to live with for programs. As you remain committed to bringing the budget toward balance within some foreseeable forecasting future, the pressure to turn to that side of the budget will become greater because there will be no place else to go.

Mr. SHADEGG. No, that's evident, there is no place else to go.

Ms. IRVING. I would cite Stein's law: things that cannot continue forever do not.

Mr. SHADEGG. Let me ask you a different question. As a freshman member of this committee, one of the first field hearings I attended happened to be in Arizona. It was in Prescott, Arizona, and there was testimony from a very diverse audience widespread support for efforts to balance the Federal budget with people who represented various different constituencies—the elderly, those in need, young people getting programs that service young people, in-

volved in programs that service delinquents. Virtually all of them stood up one at a time and said I am prepared to make whatever sacrifices are necessary and to give up some piece of my program provided I believe that the same level of the sacrifice is being made by every other Government program.

It has occurred to me that one of the reasons we have difficulty cutting any specific program is this issue of fairness, and it occurs to me that one of the problems in the current budget process is that as long as we try to attack the budget by going program by program, we are doing two things. We are, number one, not really saying that the number one problem is the overall level of spending, but rather we are trying to re-prioritize budgeting priorities that we have made over the past 40 or 50 or 60 or more years; that is, we are reexamining all these decisions.

Is it therefore reasonable to expect that we might have greater success if we did an across the board either freeze or evenly applied percentage to every single program. Second, is that what an entitlement spending cap would be and is it functional. And third, is there a way instead to motivate people by saying, if you can get the votes to eliminate a given program, you can direct where the spending goes, the savings go from that successful elimination or reduction of a program?

Mr. BLUM. We have had some experience with the across-the-board spending reductions that you have mentioned. Actually, the so-called sequestration process is an enforcement device. But when it has been used, it does lead to a lot of unintended consequences and frustration about the results. I think in budgeting—which is a process by which scarce resources are allocated among competing means—there simply is no substitute for making decisions on a program-by-program basis to meet what is perceived to be the pressing needs of the moment. I think that from a budgeting point of view to try to put the process on a formula basis is really not only probably unworkable for any extended period of time but essentially locks into place all of the old priorities, which can easily change with time.

Mr. SHADEGG. But if you cannot change the priorities and if now the single greatest problem has become spending, is it not a way of saying okay, we are not going to change the current allocation, the distribution of those scarce resources; what we are going to do is simply address all of them by recognizing there is a larger problem which is the overall spending.

Ms. IRVING. But it seems to me the problem with that is first of all that to do that on the entitlement side is complicated. You cannot do it unless you then go one level under and say you will cut this, you will cut that. Second, across-the-board cuts work when they are small, but if you look at the level of spending cuts, you are going to need to get the balance in 2002, across the board cuts run the danger of having a Federal Government do everything badly. Instead of making decisions about what, in fact, the Federal Government should do and what you decide it should not do everything is cut the same. Then in a very real way the strength of the reconciliation process has proved to be a way of packaging sacrifice. I think there are lots of reconciliation bills where the individual pieces, proponents argue, would not pass on their own. It

may be that what we are all groping for, what all of you are groping for, is how to define fairness. By that I mean what is it you say to the people in that group that will make them feel that their sacrifice is being met by somebody else's sacrifice? And the one advantage to the fixed goal in 2002 is you say, look, this is where we are today. But what is it you care about in trying to get people to recognize that they have to make choices? I think people are better at that when they are told the truth than we give them credit for.

Mr. SHADEGG. I see my time has expired. Maybe it is worth noting that one cannot really claim to be in favor of a balanced budget if one is not willing to address the hard choices to make in entitlement programs.

Chairman KASICH. Any other questions for the witnesses? The gentleman from Texas, Mr. Stenholm.

Mr. STENHOLM. One other area, the propensity of the Congress to waive the Budget Act has bugged both sides of the aisle conveniently when who was in the majority of the minority. The Senate has the 60 vote requirement which makes it much more difficult to waive it. Is that something that the House should look at also? Once we set the budget rules to make it a little more difficult like requiring a vote, a specific vote on each individual waiver rather than doing it blanket in the rule which hides it. Would that be helpful or harmful?

Mr. BLUM. It clearly would make it harder, I think, to accomplish some of the objectives for which there is at least a major consensus about attainment. But whether or not that should be done in the House, that is again above my pay grade to comment on.

Mr. STENHOLM. No, you are here to give us your best judgment as to how the budget process, the Budget Act could better be made to work. That is all I am asking is your judgment on whether or not making it more difficult to waive the rule is helpful or harmful. I think you answered it first. I will take that.

Mr. SABO. Would the gentleman yield?

Mr. STENHOLM. I will be glad to yield.

Mr. SABO. Let me add a caveat on that though. My sense is that most of our budget waivers are not related to money. They are related to process. I am not sure that in recent years we have had many budget waivers that impacted dollars.

Mr. BLUM. I think that is correct.

Mr. STENHOLM. That could prompt another comment. Following up on your statement a moment ago, I believe, Mr. Blum, you talked about that it was rather positive last year. The President's budget that he first submitted to this committee last year did not balance. And it was soundly criticized by both sides of the aisle regarding that. But the process worked extremely well as far as moving the President from no balance budget to a budget that met the criteria of which this committee had asked him to do. It seems to me though the process stopped—we stopped at the 10-yard line. Instead of continuing the process to include the Congress, we decided at some point in time that we were just going to have a political issue rather than continuing to the goal line. I think that is what Mr. Sabo's question—and I concur in the waiving. It is always processed.

But you know last time I checked, it is the Congress' responsibility to pass appropriation bills, to pass a budget. It is not the President's. It is the Congress. The President either signs it. If he signs it, fine. It is law, appropriation bills. If he vetoes it, it is up to the Congress to override it. And that process broke down at that point because we never got to the overriding and I do not think we would have ever gotten there had we continued the process and that is the purpose of these hearings and the questions.

As I understand what the Chairman wanted, he is looking at the process of the law to continue on because ultimately every member has to do as Mr. Shadegg was talking about a moment ago, you have got to bite the tough bullets if you are going to ever get there. But we always seem to find a convenient way to stop. And that is why waiving, maybe it is process, but waiving the rules, it seems to me if we were forced from time to time to have a recorded vote on some of the things that get hidden in the rules' fog, it might be helpful.

Chairman KASICH. Good, we are done. Let me just say that I need unanimous consent that the witnesses testimony be included in the record. I wanted to say to everybody on the committee and I have talked privately to several Democrats. I have not had a long conversation with Mr. Sabo yet, but I would hope, first of all, it is possible we could pass some kind of budget process reform at least through the House this year. I do not know, but it is possible. I do not anticipate anything is going to pass the Senate this year, although I have not had extensive conversations with Mr. Domenici. It is likely they are not going to move on that.

I would imagine there is going to be some areas of this budget process reform where we will have some partisan disagreements, but it would be my goal to be able to get a bill out that we would be able to do in a bipartisan way and something that we could be somewhat enthusiastic about which would mean that if we can, I mean I would love to be able to take some of your concerns and some of your fixes and some of your ideas and put it in the legislation and see if we can move something out here that is a good bipartisan approach. I do not think there is anybody, frankly, it kills me to have to admit this, who understands this process stuff better than Mr. Sabo, but after all he has been in Government now, what is it 87 years, I guess.

Mr. SABO. Seventy-eight.

Chairman KASICH. When you count his term in the Minnesota legislature which we always hear about. But I would really like to see if we can do something like that and maybe what I will do is, Martin, we will talk about, but maybe we can even get a little group of our members, bipartisan group together, and see if we can hammer out some kind of a bill.

The interesting thing is I have had a number of members on my side, Mr. Shadegg, ventilating about this subject now for about six months. I have got a stack of requests for a hearing that is about that thick. I almost feel compelled to start calling on them to ask their questions of the witnesses but I do not see them in the room. So I wish you would also help me in communicating my consternation at their seeming a flash in the pan attitude about trying to reform this process. I mean either we care or we do not. As a more



senior legislator, I always felt that when somebody was doing something on a subject that I had an interest in, it was always worth my while to show up.

So we ought to communicate this to people on the floor and if there is not great interest in budget process reform, then I am willing to pull the plug on it for this year. So let us go back and take a look and think about it. But I would love to be able to create some kind of a bipartisan masterpiece in this subject area.

Mr. Stenholm and I and Mr. Penny, a couple of years ago, put a deal together that we thought was pretty good. I think it was opposed by Mr. Sabo, but maybe we can bring Mr. Sabo into this. And this may be a great opportunity for me to split some Democrats away from Mr. Sabo, after all this work he spent 18 months trying to separate Republicans from me.

The committee will stand adjourned.

[Whereupon, at 11:09 a.m., the committee was adjourned.]



## HOW DID WE GET HERE FROM THERE: REFORM OF THE FEDERAL BUDGET PROCESS

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WEDNESDAY, JULY 17, 1996

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE BUDGET,  
*Washington, DC.*

The committee met, pursuant to call, at 10:10 a.m. in room 210, Cannon House Office Building, Hon. John R. Kasich (chairman of the committee) presiding.

Present: Representatives Kasich, Walker, Kolbe, Franks, Hoke, Largent, Myrick, Neumann, Mink, Orton, Pomeroy, Rivers, and Doggett.

Chairman KASICH. The Budget Committee will come to order.

I want to welcome our distinguished panel here. John Cogan, Senior Fellow at the Hoover Institute. More important than that, has a beautiful view of the Pacific Ocean. Richard Kogan, the Senior Fellow at the Center on Budget and Policy Priorities. I notice every once in a while they have statements to make. I notice that you have statements to make every once in a while. We are glad you are here, Richard. Richard, you did work for the committee at one point?

Mr. RICHARD KOGAN. Seventeen years.

Chairman KASICH. Seventeen years. Tell us about your stewardship here.

Mr. RICHARD KOGAN. During those 17 years, the deficits rose—

Chairman KASICH. No, no, I don't mean that. I mean did you start in 1974?

Mr. RICHARD KOGAN. I started in 1978.

Chairman KASICH. Who was the Chairman then?

Mr. RICHARD KOGAN. Mr. Giaimo was the Chairman.

Chairman KASICH. Then who became Chairman?

Mr. RICHARD KOGAN. This is a test. Jim Jones, and then Mr. Gray, and then Mr. Panetta, and then Mr. Sabo.

Chairman KASICH. Right. Got you.

Okay. We are glad you are here. Obviously, as a guy who has been here that long, you probably know more than Cogan, although he would not like to hear that said. He knows more than you, John, is what I am saying. And, of course, Tim Muris, Foundation Professor of Law at George Mason, and obviously one of the Beltway's stars when it comes to the budget and budget priorities and budget process.

I think we have an outstanding panel of people who can, in fact, shed a little light on this whole process. We will start with John Cogan, first.

## STATEMENT OF JOHN F. COGAN, SENIOR FELLOW, HOOVER INSTITUTE

Mr. JOHN COGAN. Thank you, Mr. Chairman. It is a privilege to be here.

In my opening remarks, I will summarize my views on the budget process and its reform.

Most of the recently proposed reforms, such as joint budget resolutions, capital budgeting, budget caps, pay-as-you-go rules, and sequesters, all accept the basic decentralized structure of budget decisionmaking that is used by Congress today. These reforms operate on the margins of the structure.

In the early stages of considering budget process reforms, I believe it might be useful to step back and take a look at the big picture and question whether you wish to accept the basic structure that the Congress operates under today.

The primary feature of the modern budget process is that it is highly decentralized. Currently, 16 different committees have authority to move legislation committing the Treasury to an expenditure. The Agriculture Committee has jurisdiction over farm price supports and food stamps. The Commerce Committee has jurisdiction over medicaid and parts of medicare. The Ways and Means Committee has jurisdiction over the welfare programs. Veterans' Affairs has jurisdiction over veterans' compensation and pension payments, and on it goes.

The 1974 Budget Act, which superimposes on this decentralized system, budget resolution and budget reconciliation processes, does little to affect the basic fact that decisionmaking on the budget is decentralized.

Both the elementary logic and Congress' own history suggest that this structure is a recipe for chronic deficits.

The problem is what we might think of as a tragedy of the commons. An example will help illustrate how the tragedy works.

Imagine you had a dozen logging companies that had simultaneous access to a communally owned forest. Would any of these logging companies have any incentive to restrain its harvesting of trees? No. This would only leave more trees for its competitors.

On the contrary, each logging company would attempt to harvest as many trees as is possible before its competitors did so. Competition among the logging companies would quickly deplete the forest of trees.

The same phenomenon is at work in today's decentralized process. Each of the 16 committees harvests general fund revenues to finance the programs under its jurisdiction. Since not one of these committees has control over the total amount of spending, it views its primary responsibility as one of preserving and expanding its programs, regardless of what happens to the total level of spending. Competition among committees simply makes matters worse.

There is little accountability for the deficit since none of these committees is individually responsible for creating it. It is not surprising that deficits become the rule.

This idea that widely disbursed spending authority leads to deficits has long been recognized by Congresses and by past congressional leaders. In earlier years, many of Congress' most distinguished Members repeatedly warned of the dangers of a decentral-

ized budget system. Perhaps the most forceful of these was made over 100 years ago by a former Speaker of the House. Samuel Randall was Speaker of the House during the 1870s. He then served as Chairman of the Appropriations Committee in the 1880s.

In response to a House proposal to strip the Appropriations Committee of half of its jurisdiction and scatter appropriations among a half a dozen authorizing committees, Mr. Randall warned, "If you undertake to divide these appropriations and create many committees where there ought to be but one, you will enter upon a path of extravagance we have not foreseen the length of or the depth of until the Treasury of the country is bankrupt."

Similar sentiments were expressed by Speaker, and later President, James Garfield, and by Speaker Joe Cannon, for whom this building is named.

As we sit here today looking at 27 consecutive years of deficit spending, a \$4 trillion national debt, and only a glimmer of a hope of balancing the budget in the near future, we can conclude that Randall's assessment was right on the money.

But more important than the words of former leaders is the House's own history. The history is detailed in my statement, which I believe you all have. Let me summarize it.

When Congress has operated under a centralized system, as it did for the first 90 years of our Nation's history, and as it did during the 1920s, fiscal discipline is the order of the day and balanced budgets are the rule.

When Congress operates under a decentralized system, as it did from the 1880s to 1920, and as it has since the 1930s, government spending grows at rapid rates and deficit spending becomes chronic.

The House's history also suggests a fix to the budget process problem. Spending authority should be centralized.

Now, centralization invariably involves eliminating or limiting the spending authority of some authorizing committees. To some, such action is unthinkable. Yet an earlier Congress, confronted with the same problem, found the strength to do precisely this, eliminate the spending authority that authorizing committees have. How it did so is instructive.

In 1919, the House formed a select committee on the budget. It appointed to the committee its most distinguished Members. The purpose of the committee was to recommend budget process reform.

The committee recommended a simple approach: Strip seven powerful authorizing committees of their jurisdiction to move legislation creating expenditures.

In the committee report, the committee argued that without adoption of its resolution, "true budgetary reform is impossible." The committee then called on the Members to "submerge personal ambition for the public good." The House did so in 1920. It voted to strip seven authorizing committees of their authority to move legislation committing the Treasury to spending, and the Senate followed 2 years later.

Now, I realize that the problem is much more difficult now because the spending authority that makes the current system so decentralized is imbedded in individual statutes that create entitlement authority and other mandatory spending authority. I realize

that what was possible then may not be possible now. But the direction of change for the process is clear: The House should attempt to centralize spending jurisdiction.

Despite the difficulties that one might think will be present now, despite the thought that this might be an absolutely radical proposal, the House has done it before and should at least consider doing it again.

Thank you, Mr. Chairman.

[The statement of Mr. John Cogan follows:]

#### PREPARED STATEMENT OF JOHN F. COGAN, SENIOR FELLOW, HOOVER INSTITUTE

Mr. Chairman and members of the Committee, I am honored to appear before you today to testify on budget process reform.

My testimony addresses what I consider to be the fundamental problem with the current congressional budget process. This problem, simply put, is that spending authority is too widely dispersed among congressional committees. My testimony does not deal directly with reforms of the existing process that are currently being discussed such as joint budget resolutions, biennial budgeting, and capital budgeting. But, I would be happy to address any questions you might have regarding these reforms.

Since the 1930s, deficit spending has been a persistent characteristic of federal government finance. The federal budget has been balanced in only eight fiscal years since 1930. The last time federal spending and revenues were brought into balance was in 1969 and prior to that, in 1960. In each decade, the federal budget deficit problem has worsened, rising from about one-half a percent of the nation's Gross Domestic Product (GDP) in the 1950s to over four percent of GDP in the 1980s. Although there has been some recent slowing of this upward trend, deficits during the first one-half of the 1990s have still averaged over three percent of GDP. Due to this extraordinary string of deficits, the national debt is now equivalent to over \$40,000 for every family in the United States.

The causes of these deficits are numerous and complex. Many observers have noted that deficits persist in part because the American public demands more in government benefits than it is willing to pay for in taxes. Congress, in this view, simply responds to constituent pressures. Others believe that the politics of a divided government has played a key role. With one party holding the White House and the other party holding a majority in Congress, neither side gains political advantage and each side incurs an extraordinary risk when proposing the politically painful spending cuts required to balance the budget. Although constituent pressures and party politics are undoubtedly key factors, I believe that the process by which Congress makes its spending decisions has also played a critical role in producing the structural deficits the federal government has been operating under for at least the last three decades.

#### THE ROLE OF THE PROCESS

How does the current budget process contribute to budget deficits and how can the process be fixed to eliminate this deficit bias? To answer these questions, much can be learned from the Congress' own history.

During the first 90 years of the Republic, Congress operated under a highly centralized budget process. For most of these years, a single committee was responsible for almost all federal spending decisions. During these years, the federal budget was balanced except during years of armed conflict and economic recession. Then, in the 1880s, Congress dispersed authority for spending decisions amongst a host of committees. This decentralized budget decisionmaking process, which lasted for thirty-five years, produced deficits that were unprecedented in magnitude and frequency. In 1921, the House of Representatives recognized the deficit-bias in the decentralized committee system and consolidated most spending authority into the Appropriations Committee. Balanced budgets were achieved throughout the next decade. In the 1930s, Congress began to repeat its past mistakes by again dispersing spending authority among an ever-widening group of committees. This evolutionary process continued throughout the ensuing decades and has produced a budgetary process that today is more decentralized than ever before. The results are apparent: 27 consecutive years of deficit spending and a \$4 trillion national debt.

This historical record is summarized in Table 1. As this indicates, when the Congress has operated under a centralized budget process, as it did during the majority of Congress' history, balanced budgets were the norm. In contrast, when it decen-

tralized the budget process by dispersing spending jurisdiction to numerous committees, as it has today, deficits became a regular feature of the federal budget.

TABLE 1.—FEDERAL BUDGET DEFICITS  
[Percent of GNP]

Time period	Average deficits
Centralized budgeting:	
1799-1885 .....	0.26
1922-1931 .....	-0.77
Decentralized budgeting:	
1886-1921 .....	0.69
1931-1995 .....	3.67

Throughout history, the deficit bias inherent in a decentralized budget process has been recognized by the House's most distinguished members. Many have offered warnings about its consequences. Perhaps the most forceful of these was issued over 100 years ago by Samuel Randall, Speaker of the House during the 1870. In 1885, in responding to a proposal to splinter appropriations jurisdiction, Mr. Randall warned: "If you undertake to divide all these appropriations and have many committees where there ought to be but one you will enter upon a path of extravagance you cannot foresee the length of or the depth of until we find the Treasury of the country bankrupt."

Speaker Randall and others recognized why a system of widely dispersed spending jurisdiction produces excessive spending and budget deficits. Under such a system, the total level of spending is beyond any single committee's control and no committee is responsible for the excesses in that spending. Political accountability for the deficit consequences is lost. Each committee views the budget primarily through the eyes of the interest groups that surround the programs under its jurisdiction. In this manner, the system magnifies the importance of special interest pressures for greater levels of spending and diminishes the importance of the general interest pressures for fiscal restraint and budgetary balance.

To fix the budgetary process problem, spending jurisdiction must be consolidated. How much consolidation is necessary is not known. But what is clear is that the current system in which seventeen different committees have the authority to move legislation committing the U.S. Treasury to expenditures is far too decentralized.

Consolidating spending jurisdiction invariably involves the extraordinary step of limiting or eliminating some committees' spending jurisdiction. To some, such a drastic step is inconceivable. However, an earlier Congress, when confronted with the same situation, found the strength to take the necessary steps. In 1919, Congress formed a select committee on the budget to address flaws in its decentralized budget process. The committee proposed a resolution to strip spending jurisdiction from seven authorizing committees and to return this jurisdiction to the Appropriations Committee. The committee recognized that "Without the adoption of this resolution true budgetary reform is impossible". The committee's basic argument is as applicable today as it was 76 years ago: "While it (the resolution) means the surrender by certain committees of jurisdiction which they now possess and will take from certain members on those committees certain powers now exercised, we ought to approach the consideration of the big problem with a determination to submerge personal ambition for the public good." Both Houses of Congress adopted the committee's resolution.

The remainder of my testimony takes a closer historical look at the changes in the Congressional budget process to further demonstrate the powerful role the decentralized committee system has played in producing budget deficits.

#### A CONSOLIDATED BEGINNING

For the first 90 years of this nation's history, almost all spending authority was concentrated in a single committee in each House. Beginning in 1789, the Ways and Means Committee in the House of Representatives assumed jurisdiction over all appropriations. In 1816, after briefly experimenting with select committees to handle appropriations, the Senate created the Finance Committee as a standing committee with jurisdiction over appropriations. Since these two committees were also the tax-writing committees, the institutional arrangement in these early years actually consisted of a single "budget" committee in each house responsible for virtually all taxing and spending matters. In 1865, the House created the Appropriations Committee and gave it jurisdiction over all appropriations. The Senate followed suit two

years later and shifted jurisdiction from the Finance Committee to its newly created Appropriations Committee. The shift of jurisdiction over appropriations still left a single congressional committee in each house in charge of all appropriations. This institutional arrangement continued in both houses until 1877.

From 1790 to 1835, this highly centralized budget process, along with the desire to eliminate the debt, produced a string of almost continuous annual budget surpluses until the Revolutionary War debt was fully extinguished in 1835. After the debt was repaid and before the Civil War began, neither surpluses nor deficits persisted for any significant length of time. During this early period, the longest string of consecutive budget deficits, from 1840 to 1843, was due to a severe economic recession in the first three of these four years. The longest string of consecutive budget surpluses was the eight year period from 1850 to 1857. These surpluses were used to reduce the national debt which had greatly increased during the Mexican-American War.

Following the Civil War, the House and Senate Appropriations Committees continued the fiscal restraint practiced by their predecessors. Expenditures related to the war effort were cut back sharply; enough so that the income tax was allowed to expire, tariffs were cut, and the war-related debt was reduced by one-third. Unfortunately, the year 1877 would mark the beginning of the end for this stretch of fiscal well-being.

#### FIRST PERIOD OF DECENTRALIZATION

The year 1877 was the start of a period of radical change in the House of Representatives' spending procedures. During the next eight years, the House enacted a series of rule changes that stripped the Appropriations Committee of its authority over eight of the fourteen appropriation bills. In each instance, appropriations authority was transferred from the Appropriations Committee to the standing committee which had jurisdiction over the programs contained in the appropriations bill. Starting in 1877, the House Committee on Commerce was given responsibility for reporting Rivers and Harbors appropriations directly to the floor, allowing it to bypass the Appropriations Committee completely. In 1880, the Agriculture and Forestry Committee gained responsibility over the Agriculture Department's appropriations. And in 1883, appropriations for Rivers and Harbors were formally transferred from the Appropriations Committee to a newly created Rivers and Harbors Committee.

The most drastic action occurred in 1885. In that year, responsibility for six appropriations bills<sup>1</sup> was transferred from the Appropriations Committee to various legislative committees. Fourteen years later, the Senate divided appropriations jurisdictions along the same lines. The 1885 dispersal of spending authority was without historical precedent. Taken together, the appropriations transferred from the Appropriations Committee constituted almost one-half of all appropriations.

In the midst of these changes, many members of Congress predicted that a wide distribution of spending authority would inevitably lead to increased spending and budget deficits. Perhaps the most forceful of such arguments was Speaker Randall's statement which I referred to earlier. But, Speaker Randall was not alone in his view. The Congressional Record and other historical documents of the period from 1877 to 1885 contain numerous similar statements by other national leaders, including James Garfield who served as Speaker of the House prior to becoming President. In 1879, Mr. Garfield described a proposal to divide the Appropriations Committee and scatter appropriations bills among numerous committees a "utterly ridiculous proposition" whose enactment would result in the "breaking down (of) all economy and good order and good management of our finances".

#### CONSEQUENCES OF DECENTRALIZATION

The splintering of committee responsibility for appropriations had an immediate effect on the level of appropriations. In the five years following the transfer of responsibility for Rivers and Harbors funding, its appropriations increased by 60 percent. In the five years following the transfer of responsibility for Agriculture Department funding, its appropriations doubled. And in the five years following the 1885 transfer of responsibility for the six remaining appropriations bills, funding for departments in these bills grew by fourteen percent; twice the growth for departments that continued to be funded through the Appropriations Committees.

The increase in spending did not stop at this point. As the powerful incentives created by the decentralized budget system took hold, federal spending continued

<sup>1</sup>The Appropriations bills were the Army, Consular and Diplomatic, Indian Affairs, Military Academy, Navy, and Post Office and Postal Roads appropriations bills.



to rise sharply for the next three decades. More importantly, spending rose independently of revenues. By 1893, federal spending, excluding interest payments, was fifty percent larger than it had been in 1886. By the end of the century, it was one hundred percent larger. The spending growth transformed the forty percent budget surplus, which had existed during the period from 1881 to 1885, into a deficit by 1894. The budget deficit persisted each year throughout the decade of the 1890s.

From the turn of the century until the United States' entry into World War I, government spending increased another forty-five percent. During one-half of the years in this period, the federal budget was in deficit.

Virtually all of the increase in government spending during the thirty-year period from 1886 to 1916 occurred in programs no longer under the jurisdiction of the Appropriations Committee. Programs under the jurisdiction of committees which were the recipients of appropriations jurisdiction in 1885 grew fifty percent faster than Gross National Product (GNP). Spending on programs that remained under the jurisdiction of the Appropriations Committee declined slightly relative to GNP.

The thirty years from 1887 to 1916 represent a remarkable period in U.S. fiscal history. The size of federal spending grew at a rate which, at that time, was unprecedented in the nation's experience. Growth in spending outstripped growth in revenues. Budget deficits became chronic, occurring more frequently and in larger amounts than in prior history. In nearly one out of every two years the budget was in deficit.

#### RETURN TO CENTRALIZED SPENDING

As a result of this rapid growth in the budget, the issue of budgetary process reform gained momentum in the years immediately preceding World War I. The Democratic Platform of 1916 called for a return to the pre-1865 single committee regime: "We demand careful economy in all expenditures and to that end favor a return by the House of Representatives to its former practice of initiating and preparing all appropriation bills through a single committee."

The Republican Party platform was less explicit. It called for enactment of former President Taft's "oft-repeated and earnest proposal efforts to secure economy and efficiency through the establishment of a single and business-like budget system . . ."

President Wilson, himself a student of Congress, joined those calling for budget process reform in his 1917 State of the Union message following his election to a second term. In his address Wilson stated: "And I beg that the members of the House of Representatives will permit me to express the opinion that it will be impossible to deal in any but a very wasteful and extravagant fashion with the enormous appropriations of public moneys . . . unless the House will consent to return to its former practice of initiating and preparing all appropriation bills through a single committee . . ."

World War I temporarily diverted attention from the issue of budget process reform. But as soon as the war ended, the reform effort was immediately taken up again. In October of 1919, the House of Representatives created a select committee on the Budget. The committee submitted its report to the Congress later in the year. The centerpiece of the report was a recommendation that the House adopt a resolution which "centers in one Committee on Appropriations . . . the authority to report all appropriations". According to the committee, effective control over the budget could not be achieved without consolidating spending jurisdiction. As the Committee report summarized: "Without the adoption of this resolution true budgetary reform is impossible."

The Select Committee knew it was proposing a dramatic step. Never before in the history of Congress had authority been stripped away from so many committees. However, the Committee also knew that the wide distribution of spending jurisdiction was not in the general interest. "While it (the resolution) means the surrender by certain committees of jurisdiction which they now possess and will take from certain members on those committees certain powers now exercised, we ought to approach the consideration of the big problem with a determination to submerge personal ambition for the public good."

In one day, the House Select Committee on the Budget submitted its recommendations and reported out a bill to implement them. The bill, authored by the Select Committee's chairman, James W. Good, sent shock waves reverberating through legislative committee hearing rooms. It proposed that the House wrench appropriations authority from seven powerful legislative committees.

More than seven months elapsed before the resolution was brought to the House floor. By that time, a majority had been marshaled in its favor and the resolution passed by a vote of 200 to 117.

The Senate followed the House lead two years later. On March 6, 1922, the Senate amended its rules to provide that all appropriation bills should be considered by one committee instead of many.

#### REWARDS OF CENTRALIZED SPENDING

The years following the consolidation of spending authority in the House and Senate were years of remarkable fiscal restraint. During the 1920s, the almost unbroken upward march of government spending which had occurred during the preceding three decades was halted. The budget was brought into surplus each year from 1920 to 1930, and the size of the budget surplus actually increased from the beginning of the decade to its end.

This 11-year string of consecutive budget surpluses was the longest since the 1880s before spending authority was dispersed in the House. But, the federal government's fiscal restraint of the 1920s would not be carried far into the 1930s.

A string of budget surpluses and the centralized budget process were brought to an end by the Great Depression. The collapse of the economy greatly reduced the flow of annual revenues to the federal government and thereby produced budget deficits beginning in 1931.

In addition to a weakened economy, the decade of the 1930s would witness the beginning of the unraveling of the centralized committee structure. The decentralized budget system would fuel a pattern of deficit spending for the next 60 years.

#### SECOND PERIOD OF DECENTRALIZATION

Unlike the decentralization of the 1880s, the broadening of spending authority during the last sixty years did not occur all at once. It evolved over time. Rather than simply transfer appropriations jurisdiction, the Congress devised new methods of financing government programs which gave spending authority to an ever-increasing number of congressional committees. The new methods, including borrowing authority and entitlements, have become known as backdoor spending authority.

If there is any single legislative activity that marks the beginning of the modern process of broadening spending authority, it is the creation of the Reconstruction Finance Corporation (RFC) in 1932. In creating the RFC, the appropriations process was circumvented by permitting the Corporation to borrow directly from the U.S. Treasury. The Treasury could, in turn, borrow the necessary funds from the public. Never before had such a funding technique been used. For the first time, the decision of how much to spend on a particular program was isolated from the rest of the decision-making process for the federal budget. Soon borrowing authority would come to be used to finance numerous agencies and programs. Within the next five years, the Commodity Credit Corporation, the Tennessee Valley Authority, the Homeowners Loan Corporation, the Rural Electrification Administration, and the Federal Public Housing Authority were created and allowed to obtain financing through this same mechanism.

By the early 1950s, seventeen different programs located in nine executive branch agencies had been given borrowing authority. By the late 1970s, when its use peaked, borrowing authority had been extended to more than 30 programs, including farm, housing, transportation, college housing loans, area development projects, and the Export-Import Bank.

Also in the 1930s, another form of legislation, entitlement legislation, was widely adopted. This form further dispersed spending authority among Congressional committees. Deposit insurance legislation, for example, was enacted in 1934. A year later, Social Security, Aid to Families with Dependent Children, and the Supplemental Security Income predecessor programs were created.

In the 1960s and early 1970s, a second wave of new entitlement legislation was enacted. In 1964, the Food Stamp program was created. In 1965, Medicare, Medicaid, and the Guaranteed Student Loan program were created. In 1974, states were guaranteed general assistance federal aid through the General Revenue Sharing program and the costs of their child support collection programs were matched by the federal government.

Each new entitlement weakened the control of the Appropriations Committee and widened the dispersal of spending authority among other congressional committees. In 1932, the Appropriations Committee in each chamber had responsibility for ninety percent of federal program spending. By the late 1980s, its share had fallen to about forty percent.

By dividing spending jurisdiction among so many committees between 1930 and 1980, Congress had re-established a deficit bias in its budget process; creating a new trend of excessive spending and uncontrollable budget deficits.

TABLE 2.—FEDERAL BUDGET 1950–92  
[Percent of GNP]

	Spending	Revenues	Deficit
1950–59 .....	18.0	17.6	0.5
1960–69 .....	19.0	18.2	0.8
1970–79 .....	20.5	18.3	2.1
1980–89 .....	23.0	19.0	4.3
1990–92 .....	23.9	18.6	5.3

This trend is described in Table 3 which displays the average level of federal government spending, revenues and the budget deficit as a percentage of gross national product (GNP) for each decade since World War II. As the table indicates, the budget deficit has grown in each succeeding decade through the 1980s as the committee decision-making structure has gradually become more decentralized. Government spending, driven by the inexorable incentives of a decentralized system has risen in each decade while government have grown far less rapidly.

Thus far in the 1990's the growth in the federal budget deficit has subsided somewhat. However, it is unlikely that this is the beginning of a permanent reversal of the trends of the last four decades. It is more likely a temporary phenomenon similar to the behavior of deficits in prior economic recoveries.

#### THE BUDGET PROCESS TODAY

The consequence of this sixty-year evolution which produced numerous entitlement programs and other avenues for bypassing the appropriations process, is a budget system which produces deficits.

Jurisdiction for entitlement programs currently rests with sixteen different committees in the Senate and fifteen Committees in the House of Representatives. For example in the House, the Ways and Means Committee is responsible for Social Security, Medicare hospital care, and certain welfare programs; the Agriculture Committee handles Food Stamps, and farm price support subsidies; the Veteran's Affairs Committee has jurisdiction over disability payments to veterans and old-age veterans pensions; the Commerce Committee is responsible for Medicare physician and other Part B services and for Medicaid.

#### THE 1974 BUDGET ACT

The 1974 Budget Act and subsequent legislation, such as the Gramm-Rudmann-Hollings Act, and the 1990 Budget Act's "pay-go" rules and "discretionary spending caps" are efforts to combat the inherent deficit-bias in the decentralized committee system. The 1974 Budget Act superimposed the budget resolution and budget reconciliation procedures on top of this decentralized committee system in the hope of controlling federal spending. The G-R-H Law temporarily added an enforcement mechanism. And the 1990 Budget Act made further legislative expansions in mandatory spending programs more difficult.

Each of these reforms has to some extent been helpful. But, they have ultimately proven unsuccessful in overcoming the deficit bias in the decentralized committee system. Following the passage of the 1974 Budget Act, deficits rose to historic levels and the structural deficit problem worsened. Since 1980, only three times has the actual budget deficit been less than the budget deficit called for in the resolution. In my own research, I have found no statistical evidence that these reforms significantly reduced the sized federal budget deficits.

The current procedures, specifically the "pay-go" rule, are not adequate to deal with the extraordinary budgetary problems that loom on the horizon. According to the Congressional Budget Office, if nothing is done to reign-in the growth of entitlements under current law, the budget deficit will rise to 6 percent of GDP and the National Debt will increase to over 80 percent of GDP by the year 2015. The "pay-go" rules may be effective in preventing legislative expansions, but they do nothing to slow the current-law growth in entitlements programs.

#### SUMMARY AND CONCLUSIONS

This 200-year review of the relationship between the Congressional budget process and the existence of structural budget deficits demonstrates the critical role that budget processes play in determining budgetary outcomes. Although other factors, such as a defense build-up or a savings and loan crisis, may have time-and-place importance in contribution to deficits, it is the institutional rules that create incen-

tives for particular forms of behavior and drive decision-making over the long-run. Changing the current rules is a necessary first step toward correcting the structural problem of the budget deficits.

Chairman KASICH. Richard.

# **STATEMENT OF RICHARD KOGAN, SENIOR FELLOW, CENTER ON BUDGET AND POLICY PRIORITIES**

Mr. RICHARD KOGAN. Sir, I read history differently from Dr. Cogan. In my testimony I would like to make four points: First, with respect to the causes of big deficits, and their relationship to the budget process; second, my assessment that the budget process reforms of recent times have succeeded in centralizing authority to a significant amount, possibly even more than it needs to be; third, there are lessons we have learned or should have learned from recent experiences that can serve us well in the future; and, fourth, there are a couple of relatively minor budget process changes that can make big differences in the future. But let us start with the history, because that is exactly where Dr. Cogan started.

Over the course of the history of this country, big deficits have occurred only in times of war or recession, with the exception of the 1980s. CBO says the same thing in its own dry way. It says, "until the 1980s, the ratio of debt to GDP had never risen significantly during a period of peace and prosperity."

What does this mean?

A big deficit, the way I am defining it and the way CBO is defining it, is a deficit that is so large that the debt grows faster than the economy grows. Therefore, the debt burden gets worse.

My testimony includes a graph right after page 3 that shows the debt burden shrinking from the 1950s right through to the mid-1970s, even though we were running small deficits during that time. But then it started growing thereafter, because we were running big deficits. This is essentially the difference between big and small. The point I want to make is simple. Big deficits historically occurred only during times of war or recession.

What does this mean?

It means to me that centralization or decentralization had absolutely nothing to do with deficits. You would have to believe that decentralization of committee authority in the House and Senate helped cause the Civil War or helped cause World War I or helped cause World War II or helped cause the Great Depression.

It would seem to me that if we really wanted to do a budget process reform that dealt with the true causes of big deficits, perhaps we should strengthen the United Nations or give the Federal Reserve more authority over the money supply so it might do a better job of controlling recessions. I don't know. But it seems to me the issue of congressional dispersion or executive dispersion of budget-making authority has nothing to do with it.

And yet Congress has responded exactly as though they were listening to Dr. Cogan over the course of the last century and a half. In the Budget and Accounting Act of 1921, for example, which went along with the reform that he was talking about in the House, the President was given the authority over the various agencies, which heretofore had individually put together their own budget requests and sent them up to Congress. The idea was that it was decentral-

ized agencies, each looking out for itself, in the way the logging companies were, that was causing the deficits. But it was really World War I that caused those huge deficits.

After World War II, in the Legislative Reorganization Act of 1947, the thinking was that it was the independent fiefdoms of the 13 appropriations subcommittees and the inability to control them that was the problem. It was really World War II that was the problem, but the theory was that it was dispersion of power among the Appropriations Committee, and so the Legislative Reorganization Act said, enact appropriations through an omnibus appropriations bill rather than 13 separate ones, so people can look at the whole, not just the parts.

The Congressional Budget Act of 1974, after the Vietnam War and after a recession on top of it caused higher deficits, decided the same thing, that the dispersion of spending authority (entitlement authority, particularly) in the other committees had to be controlled.

Well, naturally with all of the budget process reforms aiming at strengthening the President's control over the various agencies and strengthening, in effect, the leadership's control over the disparate committees, we have now reached a stage in which we do have some effective degree of control.

I think that the budget process last year proved that it can work. The President was in control of his proposals and the individual agencies were subservient. On the congressional side, this committee and the leadership, working together, could make an overall plan, no matter what the various committees of jurisdiction might say about it. Even when the Civil Service Subcommittee refused to go along with the overall plan put together by the Committee, the Budget Committee with the leadership's support basically overrode that subcommittee, kept the plan together, passed the plan, and coordinated it with the Senate. The congressional budget process succeeded in doing exactly what it was supposed to do: Make a coordinated plan for the budget.

It was a fairly ambitious plan in terms of deficit reduction.

To me, that is success, not failure. The fact that the President vetoed it for substantive reasons is not an issue that has anything to do with House decentralization or House centralization of authority.

Okay, so that is the first lesson, which is that I read history differently from Dr. Cogan and think that in any case we have achieved the centralization needed to make coherent budget plans, for good or for ill.

The second lesson is the "for good or for ill" part. After all, just because a plan is a coherent plan that allows a governing majority to hold itself together and work its way right through the process, that doesn't mean that the plan will be a good plan. In 1981, the governing majority, using the budget process, implemented a plan in which tax cuts were noticeably greater than spending cuts. The deficit rose for years after that.

The budget process worked to achieve that end, but that end was not an end which many of us now think was particularly useful.

The third point is, therefore, a question of what we have learned over the course of the years about the budget process. What we

have learned, or should have learned, is there are limits to what the process by itself can achieve. As I just said, strengthening centralized control does nothing in theory or in practice to improve budget outcomes. It merely allows majorities to work more effectively towards achieving their will, for good or for ill.

That effect, by the way, makes the Congress a little bit more like a parliament than it used to be. The governing majority sticks together. The fact that the governing majority has tools to stick together means that everybody else, the opposite party, coalesces into a formal opposition. And partisan strife is actually enhanced by stronger centralized control. That may be a trade-off that we are willing to continue to accept, but it is one that we should recognize: the old semi-bipartisan or nonpartisan ways of Congress have given way to greater party strife because, at least on budgetary matters, all budgetary matters are part of a single, unified, overall plan.

Another lesson that we have learned is that fixed, immovable dollar targets do not work. We learned that in two different lessons. We learned that in Gramm-Rudman I and II, and we learned that back in 1917, in the Second Liberty Bond Act, again in response to the deficits of World War I.

That budget process reform was to put a statutory limit on the public debt. That statutory limit, as you know, has very strong enforcement. Once it is reached, the Treasury can't borrow anymore, checks can't go out, and the budget will remain balanced.

Gramm-Rudman also had strong enforcement, automatic across-the-board sequestration of spending programs, with some exceptions, in whatever amount was necessary to get the deficit down to the target.

Both of these failed, and for good reason. The reason they failed is that the economy is stronger than the government. I show this in the graphs B-1 and B-2, after page 6 of my testimony.

What I am talking about here is the business cycle. As you know, the economy may grow at an overall rate over a period of time, but it will fluctuate around that underlying trend. There will be boom times in which the economy is overstimulated, there will be recessions in which it falls short.

Graph B-1 shows by what percentage of gross domestic product, GDP, the actual size of the economy can be over or under potential GDP. These graphs all use CBO data. GDP can be 5 percent or more away from its potential in any given year, and it can move rather rapidly from year to year.

Graph B-2 shows the effect of this on the deficit. When we have recessions, due solely to those recessions, the amount of extra deficit on top of whatever the underlying structural deficit was can be as much as 2.5 percent of GDP, as it was in 1983.

What is 2.5 percent of GDP? Right now GDP is \$7 trillion; 2.5 percent is \$175 billion. That means if we wanted to have a fixed deficit target of any number, and we hit a recession that caused the deficit to increase by 2.5 percent of GDP, we would need to make spending cuts or tax increases worth \$175 billion in a single year. This is not over a multiyear period.

To get a sense of the size of that number, you should remember that this year's budget resolution and last year's budget plan called

for not \$175 billion, but \$27 billion in spending cuts. (It called for less in deficit reduction because there were tax cuts.) It called for \$27 billion in spending cuts in the first year, not \$175.

Basically, we can't get from here to there. And the underlying story is we shouldn't even try to get from here to there. Because, after all, variations around the average are not really important. What is really important is whether the average is too high or not.

What CBO has pointed out, correctly, again and again, and most particularly this year, is that the underlying structural deficit, when you ignore the business cycle, was too large. There were big deficits in the 1980s. And while it has backed down just barely to the so-called small range now, it is headed right up to the big range in the future. It is headed to a point where there will be a debt and interest explosion.

In other words, big deficits are unsustainable over time. These are the structural deficits we are talking about. They should be addressed by changing the structure of tax law or changing the structure of spending programs, not by putting on fixed dollar caps that would force Congress to try to respond to the annual changes in the business cycle, to the detriment of the economy and to the detriment of looking at the long run issues.

That gets to the next point, which is that we have learned, I think well, that looking at long-term outcomes is more important than focusing on what is going to happen next week or next month or next year with respect to the budget. I think this Congress, and Congresses before it, I might add, did a particularly good job in saying that our objective is a long-term, a multiyear, a 7-year approach, to achieve a target based on average economic assumptions, rather than worrying overly about what was going to happen to the deficit for the budget year. It didn't really matter whether the deficit for the coming fiscal year, 1997 or 1996, went down this much or down that much. What really mattered was whether the long-term picture was headed toward sustainable deficits, that is to say small, rather than big, structural deficits.

We have also learned that there are some approaches that don't work, or at least we should have learned that. One thing we learned is there is no magic fountain of youth for the economy. The government cannot make the economy grow faster than its potential, and its potential is dictated basically by the overall growth rate of productivity and the overall growth rate of the labor force.

The growth rate of productivity has been sitting pretty much unchanged for more than two decades now, and general research seems to indicate that we are in normal times. The growth rate of productivity, 1 percent per year, seems to be normal, and the period of the 1950s and 1960s seems to be an abnormal reaction to the Great Depression and World War II.

We should not expect that the government can do much to change the economy. Certainly attempts were made to change tax law or change regulations and so on, and those attempts did not make any discernible difference. It didn't make things worse or better.

Some of the attempts, however, raised the deficit, which was unfortunate. It therefore follows that the only way to reduce deficits is to cut spending, raise taxes, or both. Neither of those turns out

to be terribly popular, but in the long run, it is what needs to be done.

The third thing we have learned is you can't set the bar too high without risking political disqualification. I don't think I need to elaborate on that.

The fourth thing that we have probably learned is that allowing really contentious policy questions to interfere with the process of deficit reduction can be counterproductive. I am going to use one relatively small example.

Within the overall medicare proposal that Congress passed last year, there was a plan for medicare medical savings accounts. CBO showed this particular proposal as costing a little bit of money over time, not anything that was significant that we had to worry about. Other people thought CBO was being unduly pessimistic and it might save a little money over time. However, the substance of the MSA plan was so contentious that it made an already problematic proposal even more problematic.

My personal recommendation is you should focus on medicare and medicaid, which are the real problems, and use the tried and true methods of squeezing their costs.

Finally, and changing the subject slightly, we have learned that when the government takes on a lot of contingent liabilities, as it does when it insures deposits or insures pension funds and so on, the institutions we are insuring need to be regulated fairly aggressively.

So those I think are the lessons that we have learned. I think that they do not really have anything to do with the question of whether power is too decentralized or too centralized.

Thank you, Mr. Chairman.

Mr. KOLBE [presiding]. Thank you very much, Mr. Kogan, for your presentation.

[The statement of Mr. Richard Kogan follows:]

PREPARED STATEMENT OF RICHARD KOGAN, SENIOR FELLOW, CENTER ON BUDGET  
AND POLICY PRIORITIES

SUMMARY

In today's testimony, I'd like to make four points.

First, for more than a century budget process reforms have been linked to big deficits; the government has responded to exceptionally high deficits by blaming institutional structures rather than the real causes of big deficits.

Second, the current budget process has succeeded in its aim of strengthening Presidential budgetary control over the agencies and strengthening Congressional leadership control over the committees.

Third, over the years we have learned, or should have learned, that there are limits to what a budget process can achieve:

Strengthening centralized control does absolutely nothing, in theory or in practice, to improve budget outcomes.

Establishing a fixed deficit, spending, or revenue target doesn't work; the economy is much more powerful than the government. In fact, fixed targets are counterproductive.

The process should not focus on short-run budget outcomes to the exclusion of long-run outcomes.

And we have learned, or should have learned, that there are some things budget policies cannot achieve and there are some things that a democratic republic doesn't want to do.

There is no magic fountain of youth for the economy.

The only way to reduce deficits is to cut spending, raise taxes, or both.



We can't set the bar too high without risking political disqualification. But the long-term budget problem caused by the baby boomers is solvable without drastic action.

Allowing contentious policy questions (such as Medical Savings Accounts for Medicare) to interfere with deficit reduction is poor budget strategy.

The government must aggressively regulate and supervise whenever the taxpayer has a very large financial stake, as in deposit insurance.

Finally, since the budget process already works, no major reforms are needed. I will suggest three reforms that could be somewhat useful.

Improve the accounting of federal insurance and federal asset sales.

Facilitate amendments to make reconciliation savings permanent rather than temporary.

Ask CBO to highlight current savings provisions that are scheduled to expire in the outyears.

#### DEFICITS AND BUDGET PROCESS REFORM

How did we get here? What should history teach us? Let's review the record in chronological order.

In 1865 the deficit had reached epic proportions as a result of the Civil War. Perhaps workload was the problem. The Ways & Means Committee, which had jurisdiction over both taxing and spending, was split, and spending was handed off to the new committee, Appropriations.

By 1917, the deficit had again exploded as a result of WWI. Perhaps mandating a balanced budget, with real teeth, was the answer. So in the Second Liberty Bond Act, a binding statutory limit, was placed on the federal debt. The prospect of a Treasury default as the ultimate "train wreck" would surely force budget balance. Of course, it did not.

During this period, academics and eventually Congressmen convinced themselves that the deficit was so high in part because budget making was fragmented among the agencies. Each cabinet secretary prepared his own budget as he saw fit, and presented it to Congress. The Solution was to centralize budgetary control within the executive branch. So in 1921 the Budget and Accounting Act created the first requirement of an executive branch budget, and created the Bureau of the Budget within the Treasury Department. The agencies would now become subservient to a central budget maker. In 1933 the Bureau of the Budget was moved directly to the Executive Office of the President, where it currently resides, although President Nixon renamed it the Office of Management and Budget (OMB) in 1970.

You can guess what comes next. WWII produced massive deficits. Again the response was that central control had to be tightened. In this case, the independent autonomy of the 13 Appropriations subcommittees was deemed to be a problem. The Legislative Reorganization Act of 1947 solved the problem by requiring that appropriations be enacted as a single, omnibus bill. In theory this would strengthen the full Appropriations Committee at the expense of the subcommittees. The experiment was abandoned after one year.

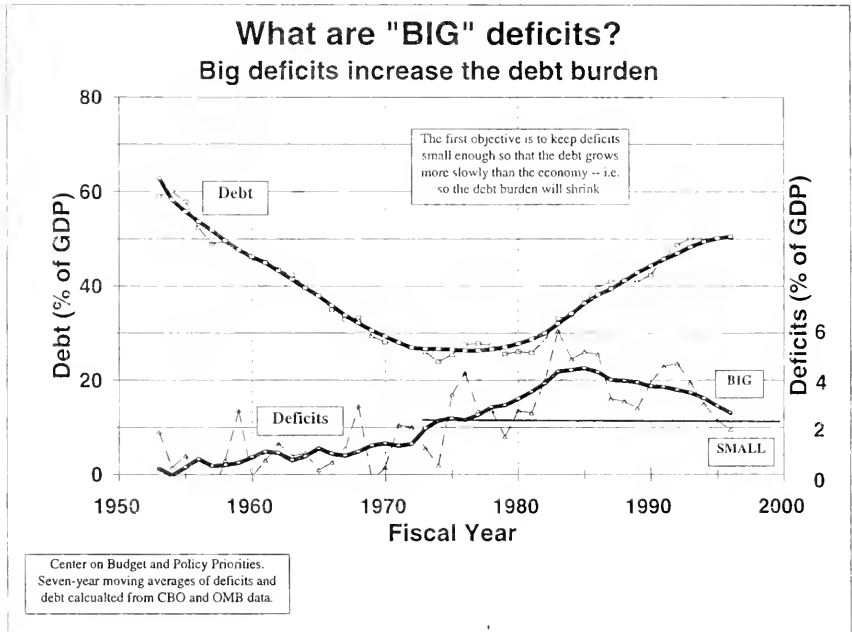
The Vietnam War (and a recession) prompted new concerns about deficits. Again the analysis was that congressional fragmentation was a culprit; in this case, too many committees were creating too many new entitlements, with no centralized control. The response was the Congressional Budget Act of 1974, which created the Budget Committees and the Congressional Budget Office to serve them.

I find this history very frustrating; it implies that the government doesn't understand cause and effect. With the exception of the early 1980s, the entire history of the United States demonstrates that big deficits are caused only by wars or recessions. Blaming decentralization in the executive or legislative branch misses the obvious point. Budgetary fragmentation did not cause the World Wars. Logic says that, if we are truly concerned about big deficits, we should strengthen the United Nations or give the Federal Reserve more tools to fight recessions.

#### BIG DEFICITS

At this point it is worth digressing for a moment to consider the difference between a "big" deficit and a "small" deficit. Graph A shows the answer. The top line of Graph A represents the debt as a percentage of the economy (as measured by the Gross Domestic Product, or GDP); see the scale on the left side of the graph. The bottom line on the graph shows the deficit as a percent of the economy. This line is magnified so that relatively smaller changes are visible; see the scale on the right side of the graph. For both the debt and the deficit, the underlying trend is shown in bold, while the actual values are shown with dotted lines that bounce above or below the trendlines.

Graph A show that a "big" deficit is one that causes the federal debt to grow faster than the economy, so that the burden of that debt increases. Until about the middle 1970s, deficits were small, usually well below 2 percent of the economy. As a result, the large debt that had accumulated by the end of WWII shrank in significance. True, the debt rose, but more slowly than the economy. In other words, as time went by the nation had more income and assets to back up its debt; in a sense, it became more creditworthy.



Starting in the mid 1970s and accelerating significantly in the 1980s, the nation went from small deficits to large deficits. The debt as a share of the economy started to rise again. The problem with large deficits, as CBO and others have pointed out, is that they are ultimately unsustainable. As the debt grows, interest on that debt compounds, requiring still more borrowing to cover the interest payments. The miracle of compound interest works against the government; if left unchecked, a "debt explosion" could ultimately occur.

In short, a big deficit is one that is ultimately unsustainable if continued indefinitely, while a small deficit is one that can be sustained indefinitely.

#### WHAT DOES THE PRESENT BUDGET PROCESS ACCOMPLISH?

We have seen that budget process reforms were instituted in response to big deficits. Although there was no obvious reason to do so, past budget process reforms have succeeded in centralizing budgetary control. The executive branch is pretty firmly in the President's hands, with OMB as his agent. The legislative branch has centralized control in the leadership, through the mechanism of Budget Committees, appropriation allocations, and reconciliation bills.

Therefore, far more than in past decades, the executive branch can speak with a single voice on budget policy and the legislative branch can (if the House and Senate agree) respond with a single voice. If fragmentation had been a problem, it is so no longer.

Distilled to its essence, the congressional budget process now allows a majority of Members to create and coalesce around a single budget plan, and then gives them the tools they need to make sure that plan is actually implemented by Congress. The most important of those tools are:

- the allocations enforced by point of order (which stops over-budget appropriations bills, entitlement liberalizations except to the extent countenanced in the

budget resolution, and tax cuts except to the extent countenanced in the budget resolution); and

reconciliation directives and an omnibus reconciliation bill, which are critical to the process of making sure that a working majority cannot be stymied by a recalcitrant committee. Likewise, the reconciliation process (especially in the House) helps the governing majority stick together by providing a single, up-or-down vote on final passage of the whole bill. No faction of the governing coalition can make a side deal to kill the one title it considers most objectionable. The reconciliation process follows the first rule of politics, that a "deal is a deal."

In short, the congressional budget process makes Congress a bit more like a parliament and a bit less like the older model of 435 headstrong individualists or 20 autonomous committees.

To my mind, strong leadership is generally a virtue. Leadership can only be strong if it has the tools to keep a governing coalition together. I therefore am discomfited by recent trends that could weaken governing coalitions by giving special advantages to those who would, for one reason or another, try to pick apart a budget plan after it was agreed to. Line-item vetoes, "A-to-Z" proposals, and lockboxes all work counter to the rule that a deal is a deal.

Effective budgetary centralization has been achieved. Yet this achievement has not eliminated wars, recessions, or big deficits.

#### WHAT HAVE WE LEARNED ABOUT THE PROCESS?

##### *Process lesson #1: The fruits of centralization*

This is probably the most important lesson we have learned: centralizing control over budgetary matters may do nothing to improve budget outcomes. There are three separate reasons that centralization is no answer.

First, a strengthened leadership can use that strength, that centralized authority, to enforce good policy decisions or bad ones. The policy decisions made for fiscal year 1982—in President Reagan's first year—paired a massive tax cut with a noticeably smaller spending cut. This led, as anyone could have predicted, to significant increases in the deficit. As CBO has noted in its technical way, "until the 1980s, the ratio of debt to GDP had never risen significantly during a period of peace and prosperity."<sup>1</sup>

Second, centralized control and strengthened leadership sometimes entices Congress to go farther than the public wants. 1996 was not the first time the congressional budget process allowed a governing coalition to put together a complete and daring budget plan, to its own dismay.

Finally, strengthening centralized party leadership makes Congress a bit more like a parliament in yet another way—it prompts the other party to unite in opposition. Randolph Churchill, I believe, said "the duty of the opposition is to oppose." But this was not always the American way. Many committees, including Appropriations and Ways & Means, worked in largely non-partisan ways on all but the biggest issues until the Congressional Budget Act. Since then, however, more and more budget actions have become partisan showdowns.

In short, centralized authority doesn't improve budgetary outcomes, it merely increases partisan conflict and the likelihood of major policy swings (and political swings) from election to election. It is, to a certain extent, destabilizing.

##### *Process lesson #2A: Fixed deficit targets don't work*

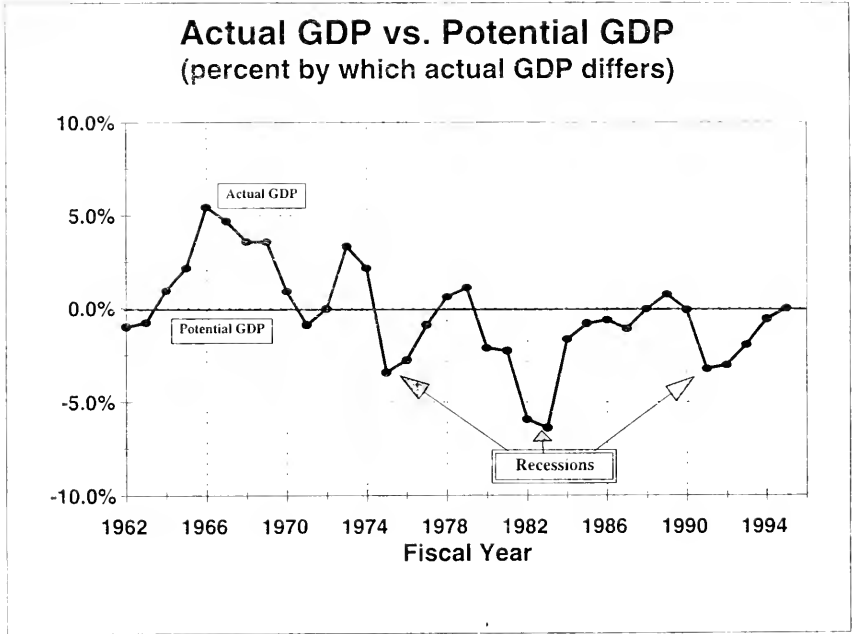
Twice, the federal government has enacted laws setting fixed, immovable deficit targets. One version of such a law is the statutory debt limit; the other is the Gramm-Rudman-Hollings acts of 1985 and 1987 (GRH I and II). In each case, very potent enforcement was attached to the fixed deficit requirements. When the debt limit is reached, the Treasury cannot borrow, and so will have to stop writing checks. Under GRH, if the deficit ceiling were breached, across-the-board spending cuts would automatically be ordered in a list of federal programs; the cuts would be as deep as needed to achieve the deficit target.

History records both these attempts as failures. When faced with a choice between Treasury default and raising the debt ceiling, Congress has eventually always done the right thing. The debt ceiling is an anachronism and should be repealed.

GRH has already been repealed, replaced in FY 1991 by two more effective control mechanisms: caps on the total level of discretionary appropriations, and a rule of deficit neutrality (called the "pay-as-you-go" rule) that requires entitlement liberalizations and tax cuts to be fully offset.

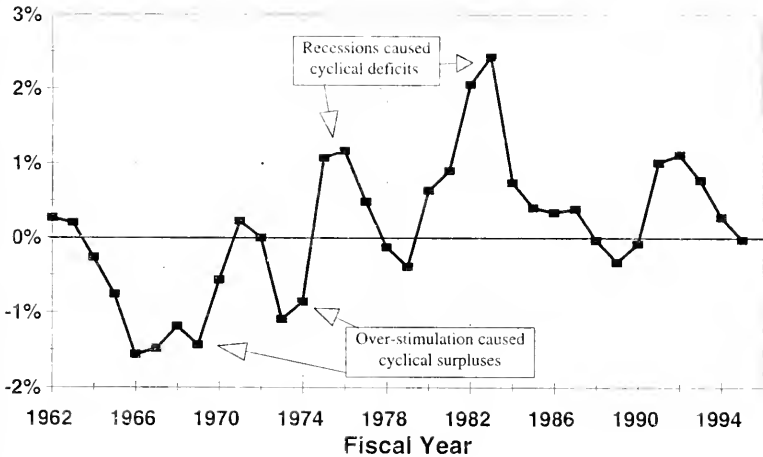
<sup>1</sup> The Economic and Budget Outlook: Fiscal Years 1997–2006. CBO, May 1996, p. 79.

But why didn't the debt ceiling and GRH work? Was the enforcement too weak? No, the problem is that the economy is too powerful. Graphs B1 and B2 illustrate this point. Graph B1 shows that economic performance swings back and forth around its underlying, long-term potential by fairly wide margins. The economy might be as much as 5 percent above or below potential in any given year, and the swings can come quite suddenly. This is the well known "business cycle" of recession and recovery, boom and bust.



## The Business Cycle and the Deficit

### Cyclical deficit/surplus as a % of GDP



Graph B2 shows the effect of the business cycle on the deficit: in FY 1983, when the economy was 6.4 percent below its potential, that economic shortfall by itself caused the deficit to be almost 2.5 percent of actual GDP. In other words, the recession added another 2.5 percent of GDP on top of the underlying "structural" deficit. (The structural deficit represents the deficit that would obtain if the economy were operating at its full potential, rather than below or above it.)

GDP is currently around \$7 trillion. If a recession causes an otherwise balanced budget to become unbalanced by 2.5 percent of GDP, that means the deficit will be about \$175 billion. To get a sense of the magnitude of this figure, compare it with the budget-year spending cuts of \$27 billion called for in the FY 1996 and FY 1997 budget plans. To reduce the budget-year deficit by \$175 billion would be truly heroic.

#### *Process lesson #2B: In fact, fixed deficit targets are counterproductive*

Such heroism would also be unfortunate. By pulling a significant amount of purchasing power out of the economy when it was already in a recession, any chance of a recovery would be thwarted. (In all probability, the economy would be driven even deeper into recession, and the budget therefore would still be in deficit, perhaps prompting still more deficit reduction efforts. This experiment was tried from 1929 to 1932, and contributed mightily to the Great Depression.

Does this mean that Congress should stop trying to reduce the deficit? To the contrary; reducing the deficit to a sustainable level—even to zero—is advisable for all the reasons that CBO explains in its chapter on the long-range budget outlook. The point is very different: Congress should strive, within the bounds of possibility, to reduce or eliminate the underlying, or structural, deficit. Congress should ignore cyclical deficits or surpluses. Specifically, Congress should not rush to spend more (or grant tax cuts) in boom times, just as it should not cut spending (or raise taxes) during the busts.

King Canute could not stop the tide from coming in (as he correctly predicted to his sycophantic courtiers), and Congress cannot stop the business cycle and the attendant cyclical deficits and surpluses. Neither does it need to. If Congress can keep the structural deficit at a reasonable level, all the highly adverse long-run economic and budgetary outcomes that CBO warns us about would be avoided. The ups and downs of the business cycle will make little or no difference to the long-run budget outlook.

I should note that fixed deficit targets have a separate drawback; they produce an overwhelming need for unseemly evasion. The fact that evading fixed deficit targets during an economic slowdown is actually good public policy may be lost on the public, and the press will trumpet each evasion as though it were exposing a mortal sin. Furthermore, the habit of evading targets during bad economic times may slop over to good times. And perennial, ongoing, institutional lying ultimately corrodes the trust between the public and its elected representatives that a democracy must rely on.

*Corollary to lesson #2: Fixed spending caps are likewise problematic*

Finally, I should note that fixed spending targets are poor policy tools for the same reason that fixed deficit targets are. That is, to the extent Congress wishes to plot a course for federal spending, that course should set targets for structural spending, the amount of spending that would flow if the economy were at its potential. To give a concrete illustration of the fallacy of fixed spending targets, unemployment compensation is specifically designed to fluctuate with the business cycle. That program costs much more during a recession and much less during normal times. This is a virtue, not a flaw. It is simply inappropriate to say that unemployment compensation should be a fixed, preordained dollar amount. If a recession occurs, should unemployment checks be given on a first-come, first-served basis? Should everyone's benefits be cut in half? Such fixed spending targets would vitiate the entire point of the program. And they are unnecessary; over time, the business cycle will average out. It is the underlying structural or average cost of a program that Congress should consider.

The same argument applies, although to a lesser extent, to Food Stamps, Medicaid, and AFDC. None of those programs should have fixed caps, unresponsive to the business cycle. Likewise, any overall fixed-dollar entitlement cap is flawed in the same way. It is instructive that when Republican leaders such as Representative Armey, Senator Dole, Senator Domenici, and Senator Gramm have proposed entitlement caps in past years, each such proposal aimed the caps at the underlying, or structural, cost of entitlements. Those caps were designed to adjust automatically if caseload changed in unexpected ways.<sup>2</sup>

*Process lesson #3: Keep your eye on the long-run goal*

Periodic debt limit crises or GRH crises have prompted Congress and the executive to perfect the art of the gimmick; timing shifts and asset sales are the favorite. FY 1987 was an especially noteworthy year. In August 1986 the official GRH report revealed that another \$10 billion in deficit reduction was needed to reach the GRH fixed deficit target. OMB Director Jim Miller suggested solutions to the problem: the final general revenue sharing payment, scheduled for the first day of FY 1987, would be accelerated so that it would instead occur on the last day of FY 1986; the US government's stock in CONRAIL would be sold; and the loan portfolios of much of the Departments of Agriculture and Education and the Veterans Administration would be sold. Of course, selling loan assets brings in cash now but loses cash later.

It was on the basis of this experience that GRH II banned timing shifts and asset sales. More significantly, though, the lesson is that focussing too intently on the budget year induces the government to take actions that may be counterproductive, and in any case fail to address the fundamental question of whether long-term structural deficits have been reduced to sustainable levels.

This lesson had been learned previously, but temporarily forgotten during the GRH days. For example, multiyear reconciliation was first used in FY 1982; 3-year budget resolutions were formalized in FY 1987, and for FY 1991 the Budget Act was amended to require 5-year budgets and to make multiyear committee allocations and revenue floors binding. Likewise, in negotiating the 1990 budget summit agreement the participants focussed more on the total amount of deficit reduction than on the first-year savings target. And in the last two major deficit reduction exercises, in FY 1994 and FY 1996, Congress and the President also focussed more on the long-term savings than the first-year savings. Broadly speaking, this approach is commendable.

<sup>2</sup> Future inflation is even less predictable than future caseload. There are two key points with respect to inflation. The first is that inflation has very little effect on the level of the deficit. The second is that inflation can vary markedly, and for a long period of time, from forecasts. Therefore, it is inappropriate to set fixed spending targets, which by their nature ignore the possibility that inflation will vary from predictions. It is noteworthy that the entitlement cap bills listed above all included automatic adjustments to the caps if inflation deviated from expected paths.

## WHAT HAVE WE LEARNED ABOUT THE DEFICIT?

*Deficit lesson #1: There is no fountain of youth*

If we could just achieve higher economic growth, we are told, the deficit problem would solve itself. Of course this is true. But no one has discovered a fountain of youth for the economy, even though much has been tried. Among the failures:

Economic stimulus when the economy has already reached its potential.

Economic stimulus combined with wage-price controls.

Tax rate reductions.

Deregulation.

The last two approaches are especially interesting, because there is some theoretic reason to expect they could help overall economic growth. Cutting tax rates should help by decreasing the relative value of tax shelters, making it more likely that investors will put their assets where they have the best rate of return rather than the best tax treatment. Some also argue that tax rate reductions, by increasing the after-tax rate of return on investment, will spur more savings and investment, thus stimulating growth. Some even argued that tax rate reductions, by increasing the after-tax value of wages, would induce people to work more and harder. All of these results would increase productivity.

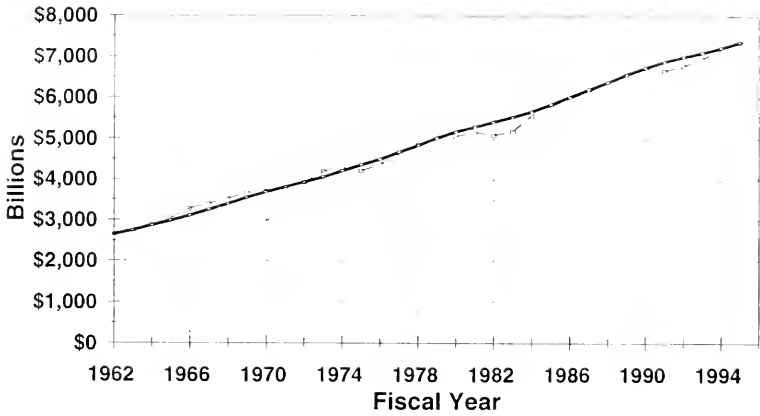
Deregulation is supposed to help in much the same way; more of the economy would be exposed to the "discipline of the marketplace," thus forcing greater efficiency.

But the great experiment of the early 1980s was a failure. Even the tax reform act of 1986, which reduced rates but made up for the revenue loss by broadening the tax base, did not seem to help. These bills did not increase the underlying growth rate of the economy. The private savings rate did not increase; rather, it continued to decline. As a result, investment fell rather than increased. People did not work more or harder. Productivity increased at the same rate in the 1980s (and 1990s, for that matter) as it had in the 1970s. And the overall economy continued to grow at the general rate dictated by the growth of productivity and the growth of the labor force. Since the latter continues to slow (because the "baby bust" generation is now entering the labor markets, not the baby boomers), the rate of total economic growth continues to slow.

This can be seen in Graph C1, which shows potential GDP as a bold line. (That graph also shows actual GDP, which fluctuates with the business cycle, as a dotted line). While the real size of the economy has grown significantly since 1962, its annual growth rate has been slowing gradually ever since the 1970s. If the growth rate had merely remained constant, the graph would have shown a nice upward curve because growth rates compound, just like interest on a passbook.<sup>3</sup>

<sup>3</sup> Another way to see that the growth rate has declined is to graph inflation-adjusted GDP on a logarithmic scale, as on Graph C2. On such a scale, a constant growth rate would produce a straight line. Instead, one can see that the line representing potential GDP curves downward.

## Gross Domestic Product adjusted for inflation



Center on Budget and Policy Priorities,  
from CBO data

—○— Actual GDP      — Potential GDP

### *Deficit lesson #2: Cut spending, raise taxes, or both*

In fact, it turns out that the best way to reduce deficits is to cut spending and raise taxes, just as CBO has been saying for decades. In reality, CBO expects that deficit reduction by itself will produce a very small, but measurable, increase in the growth rate of the economy simply by making more capital available and putting downward pressure on interest rates.

But we should not get too excited about this point. The overwhelming reason to reduce the deficit is to avoid a cataclysmic debt and interest explosion. Avoiding a debt explosion must be the main goal of budget policy even if it turns out to cause no measurable increase in productivity in the intervening decades. Put most bluntly, the nation needs to save for the baby boomers' old age even if it doesn't get any extra bonus for saving.

### *Deficit lesson #3: Don't set the bar too high*

Those of us who watch TV remember the "Dan and Dave" TV ads before the 1992 Olympics. These two decathlon stars realistically expected Olympic medals. But in the trials for the U.S. Olympic team, Dave—the world record holder—set the bar for the pole vault too high, missed all his attempts, and was disqualified.

While Aesop would have said it better, the moral of the story is clear enough. When it comes to deficit reduction, don't disqualify yourself by setting the bar too high. Some deficit reduction is better than none. As CBO points out, there is no desperate need to balance the budget; rather, there is an insistent and permanent need to get rid of big structural deficits. CBO states that, "The economic benefits of stabilizing the debt-to-income ratio are almost as large as those of balancing the budget."<sup>4</sup> Stabilizing the debt-to-income ratio is merely a synonym for avoiding big structural deficits.

CBO also points out that stabilizing the debt-to-income ratio can be achieved without draconian spending cuts and tax increases, especially if we start soon.

### *Deficit lesson #4: Don't remake the world*

Since the one critical budget issue is the long-term debt burden, it may be counterproductive to saddle a budget plan with too much in the way of novel policies.

<sup>4</sup>Ibid, p. 90.



Medicare MSAs (medical savings accounts) are but one example. CBO did not expect MSAs to produce any Medicare savings; others hoped they would. But either way, the proposal was so contentious for policy reasons, not budgetary reasons, that it made a problematic bill even more so.

I would recommend using the standard techniques for squeezing Medicare and Medicaid costs—they certainly need to be squeezed. But I would also recommend that contentious issues such as MSAs, benefit guarantees, devolution, and state matching requirements be left for the regular legislative process. Those issues are not immediately important for deficit reduction, and deserve to be treated in a different forum, probably one in which the Byrd Rule does not govern.

#### *Deficit lesson #5: Don't ignore contingent liabilities*

The other big lesson of the 1980s—beyond the lesson that tax cuts increased the deficit—is that government insurance can be expensive. When the savings and loan industry sank too low in the water, the savings of tens of millions of depositors were at risk, as was the stability of the entire banking system. Federal deposit insurance is a wonderful program; the lack of deposit insurance was one of the major reasons that the recession of 1929 turned into the Great Depression and its existence since then is one reason that the Great Depression has not recurred.

But the 1980s showed that it was unwise to allow thrift institutions to gamble with the taxpayers' money (which is what deregulation allowed), to fail to supervise the industry, and to put artificial constraints on the ability of the government to shut down insolvent thrifts and pay off depositors before they gambled away even more of the taxpayers' money. In short, when taxpayers insure an industry, they have the right to insist that the industry not gamble with their money. The question is whether we have adequately learned that lesson with respect to other taxpayer guarantees, such as with government insurance of private pensions.

#### SUGGESTIONS FOR BUDGET PROCESS REFORM

Since I believe the budget process already works as needed—perhaps too well—in centralizing control and authority, I have only three process reforms to suggest to this Committee.

#### *Insurance and asset sales*

First, press CBO and OMB to reach agreement on a better way to portray the budgetary effects of government insurance such as deposit insurance, pension insurance, flood insurance, and so on. The present cash scorekeeping can seriously distort the real flow of financial benefits, with the costs showing up only well after they have actually occurred. These types of insurance are conceptually similar to loan guarantees, where the real transfer of wealth occurs when the government co-signs the loan, not when it later makes good on a defaulted note.

This issue has been studied by OMB and CBO for years, and reports have been written. It is now a question of working out an acceptable scoring convention. The issues are not simple, but we know the current system is completely inadequate.

Along the same line, the scoring of asset sales needs to be fixed. If scored on a cash basis, asset sales appear to reduce the deficit. But they generally increase the long-run deficit because the income that the assets would produce is lost. Since the lost income may stretch many years beyond the budget horizon, there exists a tendency to sell assets at a loss (which is pork for the buyer) and call it deficit reduction.

However, the GRH II rule was also faulty. It correctly stated that an asset sale was not deficit reduction, but left the absurd result that an asset sale and an asset giveaway were scored as though they were the same transaction.

Better solutions exist. CBO and OMB should be asked to agree on one.

#### *Permanent reconciliation savings*

The committees that really do not want to cut their programs have an annoying habit of designing their reconciliation savings to be temporary. For example, in 1993 both the Civil Service and Armed Services Committees met their reconciliation savings by delaying the date on which cost-of-living adjustments (COLAs) would be granted retirees. But then, just over the edge of the five-year budget horizon, the reconciliation bill provided that retirees would get three full-year COLAs over the course of two years, putting them right back where they would have been if the delays has never occurred.

I suggest the Rules of the House be changed to give any Member the right to offer an amendment to a reconciliation bill to make its reconciliation savings permanent. Obviously the Rules Committee could allow such an amendment without a change in House rules, and just as obviously the Rules Committee can deny this amendment no matter what the Rules say. The purpose of this suggestion is merely to es-

establish a presumption in favor of permanent savings, and make other committees think twice before sunseting their savings.

#### *Current law vs. current law*

CBO projects entitlement and tax law by assuming that the provisions of law will not be amended. This makes eminent sense, in that it creates the benchmark a Member most needs when making a budgetary decision: a Member needs to know whether voting to amend the law will make it more or less expensive than leaving it alone. Will a "yes" vote cost more or less than a "no" vote?

But this necessary approach has the unfortunate side-effect of building into the projection any future changes in law that have already been enacted. For example, if a savings provision is due to expire in two years, CBO's baseline naturally assumes it does expire. Therefore, Medicare costs for FY 1999 under "current law" can have two different meanings. To CBO, it means "Medicare law as it is scheduled to apply in 1999." But another useful meaning would be "Medicare costs projected for 1999 as if the provisions applicable for 1996 still applied in 1999." The difference between these two meanings of current law would tell this Committee how much any built-in changes in tax and entitlement law will cost or save in the outyears.

CBO already makes the necessary estimates. My suggestion is that you ask CBO to make a prominent display of this alternative view of current law in its annual report. My hope is that such a display would include Members to consider the continuation of existing savings provisions as a given, and then ask what further saving can be achieved.

#### CONCLUSION

Since big deficits were not caused by flaws in the budget process, the notion that the process should be changed in response to big deficits is without merit. Centralization of budgetary authority can be a good tool to allow a determined majority to reduce the deficit, but it can be a good tool to allow a determined majority to increase the deficit. Centralization also promotes partisan strife and increases the extremes of policy changes.

Separately, we have learned over time that we should focus on the underlying budget trends and ignore the year-to-year fluctuations caused by the business cycle: they are too big to offset, and it would be counterproductive to try.

Finally, the 1980s taught us two other lessons: the only way to reduce the deficit is to cut spending, raise taxes, or both; there is no magic growth hormone for the economy. Second, when the taxpayers become partners in an industry, they need to make sure their pockets aren't picked.

Mr. KOLBE. Our third and final will be Dr. Muris.

#### **STATEMENT OF TIMOTHY J. MURIS, FOUNDATION PROFESSOR OF LAW, GEORGE MASON UNIVERSITY SCHOOL OF LAW**

Mr. MURIS. Thank you very much, Mr. Chairman.

Let me make two points by way of introduction. The first is how Byzantine this process is. I frequently feel like Yogi Berra did. In high school he was confronted by some of his teachers. Frustrated by his performance, they asked him, "Laurence, don't you know anything?" And he looked up at them and he said, "I don't even suspect anything."

Unfortunately, the budget process has become so Byzantine and complex that even people who spend a lot of time thinking about it do not suspect some of the complexities and the intricacies.

The second point by way of general introduction is I agree that it is fundamental flaws in the process that have gotten us to where we are today. I particularly agree with what John Cogan had to say. But given where we are, process reform alone will not solve the problem. It is necessary to have process reform, but to solve the problem we also have to do what Congress did last year, which is make changes in tax and spending laws.

However, without reforming the process, even changes like those proposed last year are going to leave a flawed process with incentives that will eventually lead to increased deficit spending.

I agree with John Cogan that decentralization is the major problem. Let me discuss some empirical evidence. Along with an economist at George Mason University, I studied the natural laboratories of the United States, the 50 States, to see if decentralization makes a difference.

It turns out that the States are roughly split. About half of them have a centralized spending process, and about half of them have a decentralized process. Process does make a difference. The decentralized States spend more money per capita than the centralized States.

At the Federal level, consider the rise of large deficits. The decentralization problem occurred slowly over time. It took years for the appropriators to lose control. With centralization, Congress reacted quickly. In 1958, for example, there was a serious recession with a large deficit. Congress quickly responded and eliminated that deficit.

With decentralization, on the other hand, by the mid-1970s when large deficits occurred, rather than declining to below one percent of GDP or very close to zero, except for one year the deficit stayed above three percent.

In the early 1980s we had the most severe recession since the Great Depression with the Fed's change in monetary policy. The large deficits that followed began from a higher base. Although there was enormous growth during most of the Reagan administration, the deficit declined only to near the three percent level. Thus, when the inevitable turn in the economy occurred in the early 1990s, deficits increased.

When we have a growth spurt, deficits do decline, but not to the low level that existed with centralization. With centralization, when we had a deficit problem we quickly returned to something close to balanced budgets.

Because Congress has been unable to address the centralization problem, it has attempted a series of weaker solutions, beginning with the creation of the new budget process in 1974. That new budget process is itself flawed, and not just because it fails to address centralization. Let me discuss some of those problems.

The first is baseline budgeting. Baseline budgeting has been an ingenuous system, as Alan Schick once said, for Republicans to claim more cuts and for Democrats to save more programs, all the while the deficit has increased.

There are three major problems with baseline budgeting. The first, which is the most important, is that the baseline system hopelessly confuses the public.

You are all aware with the experience of Medicare. Most people, particularly senior citizens, think Congress was actually trying to cut Medicare last year as measured on a year-to-year basis. Yet, if people understand that Medicare was going to grow at 6-7 percent a year, they are much more likely to support reform than if they think it is being "cut."

There are two other problems, which, unfortunately, are often ignored. The second problem is the current baseline used does not

measure "current services." Current services are an attempt to measure tomorrow what it would cost to fund today's government. Many opinion leaders and reporters defend the use of the word "cut" and defend the use of current baselines because they think it measures current services. Thus, they argue that because the baseline includes growth for inflation and an increase in the number of beneficiaries, it therefore is the appropriate concept.

But that is not what the baseline does. The people who invented the baseline quickly realized that it was impossible to measure current services in any policy neutral way, and in some cases in any way at all. Instead, the baseline measures current policy.

Current policy simply measures how much will be spent tomorrow under the way the law is written. If the law has enormous expansions to be phased in five years down the road, when the fifth year comes, the new spending is already in the baseline.

Let me talk specifically about Medicare and Social Security. Medicare has grown primarily for three reasons, two of which sound like so-called current services, and one of which is clearly not. One is an increase in beneficiaries. The second reason is an increase in inflation. The third reason is greater utilization of services.

Sixty percent of the historic growth in medicare has been from greater utilization of services. That is clearly not current services, which again is how much it would cost tomorrow to fund today's government.

The final problem with the baseline concept, and Medicare reveals it, is the system has been hopelessly manipulated. These unfortunately are part of what Richard Kogan called the tried and true methods. The best example is Congress would set a provision to expire. They would pass a cut today, set it to expire in a couple of years, so when the time passed, they could pass it again. There were several other manipulations as well.

Let me finish my testimony by talking about Congress' last attempt to reform the budget process, the BEA. One problem is on the discretionary side. Congress established caps, but the caps, because they were set high to begin with, because they do not measure the actual amount of money that is spent, and, because they are adjustable allowed large increases in spending.

Although Congress passed and the President reluctantly acquiesced in a significant reduction last year in domestic discretionary spending, that reduction should be seen against the previous 7 years, when discretionary domestic spending properly measured grew twice as fast as inflation.

Finally there is PAYGO. There are two problems. One, it only applies to changes in the law, so-called new policies. The second is it does not apply to technical and economic changes. If Congress uses a bad forecast, a forecast turns out to be wrong in terms of how much money is going to be spent, there is no penalty.

In 1990, Congress passed so-called "cuts" in Medicare. Those cuts were obliterated many times over by an actuary's pen because the estimators had underestimated the rate of growth in Medicare.

Thank you very much.

Mr. KOLBE. Thank you for the testimony.

[The statement of Mr. Muris follows:]

PREPARED STATEMENT OF TIMOTHY J. MURIS, FOUNDATION PROFESSOR OF LAW,  
GEORGE MASON UNIVERSITY, SCHOOL OF LAW

I. INTRODUCTION

Thank you for inviting me to discuss the Federal budget process.

Despite opposition to the size and persistence of deficits from all quarters—economists, politicians, editorial boards, and other opinion leaders—consistently large deficits remain. Two views are most often advanced for failure to end these deficits. The first is that the problem is one of political gridlock: the Republican (or Democrat) majority in Congress and the Democrat (or Republican) President cannot agree on the mix of spending and tax policies necessary to solve the problem.

The second view is that logrolling among legislators and rent seeking by special interests combine to produce spending higher than would exist in a world with lower information costs. For example, transportation projects benefit concentrated interests who care intensely about the project's benefits (reduced congestion and local jobs), while the costs are widely dispersed among taxpayers. Participating in the political process is not free, and opposing inefficient programs is simply not worth the time and effort for most individuals. For many, concerned about maintaining their jobs and supporting their families, collecting enough information to participate effectively in the political process is simply too difficult.

Although there is significant truth to those two views, they do not tell the whole story. Changes in the institutional structure within the Congress and in the budgetary framework in which Congress operates have combined to create the incentives and the means for the deficit to grow and become difficult to control. Regarding institutions, the balkanization of legislative control over spending has led to increases in spending. Moreover, the consolidation within committees over both revenue and spending authority for entitlement programs has fueled the growth of specific programs. The budgetary framework in which Congress operates further biases policy in the direction of increased spending. Politicians can announce "cuts" that satisfy the public's general desire for reduced government spending and deficit control, while increasing spending for most programs, thus assuring themselves the support of special interest groups. Moreover, the much praised Budget Enforcement Act (BEA), first enacted in 1990, is seriously flawed.

I will discuss each point in turn, including possible solutions. Let me make clear, at the outset, the role of process reform in solving our current deficit problem. A faulty process is a major reason why the problem exists. Yet, now that we have large, and soon to be larger, deficits, we cannot magically solve the problem through a mere change in the budget process. Instead, Congress and the Executive must make substantive changes, such as those the Congress courageously passed last year. Without reforming the process, however, even last year's legislation would not have guaranteed success over time. The incentives to spend more than the revenues received that are inherent in the current system must be eliminated.

II. THE BALKANIZATION OF LEGISLATIVE CONTROL<sup>1</sup>

Two key institutional changes made during the 1930s were critical in producing the nearly continuous string of postwar deficits. The first and most important was to transform jurisdiction over expenditures from a highly centralized committee structure to one in which various committees had spending authority.

A. *The dispersal of spending authority*

For most of our nation's first century, a single committee in each house controlled almost all spending authority. This institutional arrangement persisted until 1877; in rule changes over the next nine years, the House stripped the Appropriations Committee of its authority over eight of the fourteen appropriation bills. In each instance, appropriations authority was transferred to the legislative committee that had authorizing jurisdiction over the programs contained in the appropriations bill. By 1885, the House had transferred almost one-half of all non-mandatory appropriations to various legislative committees. In 1899, the Senate followed suit, dividing appropriations jurisdiction.

An upward surge in spending followed the dispersal of appropriations jurisdiction. During the seven years following the House decision, spending grew at a rate un-

<sup>1</sup> This discussion draws heavily on the work of John F. Cogan, "The Dispersion of Spending Authority and Federal Budget Deficits," in *The Budget Puzzle: Understanding Federal Spending*, eds. Cogan, J.F. Muris, T.J. & Allen Schick (Palo Alto: Stanford University Press, 1994) and, for empirical support, on W. Mark Crain and Timothy J. Juris, "Legislative Organization of Fiscal Policy," 38 *Journal of Law & Economics* 311 (1995).

precedented in U.S. history. By 1893, program spending was 50 percent larger than it had been in 1886. Expenditures continued upward following the Senate's decision to divide appropriations jurisdiction, rising 45 percent between 1900 and 1916.

As a result of this rapid growth in spending, calls for budget process reform increased throughout the years preceding World War I. In October 1919, a select committee on the budget was established and recommended that the House consolidate the authority to report all appropriations in one committee. This recommendation was approved in 1920. In 1922, the Senate amended its rules to provide that all appropriations also be considered by one committee. Consequently, the U.S. budget was in surplus for the eleven year period 1920-1930, the longest streak of consecutive budget surpluses since spending authority was dispersed in the House.

Unfortunately, the process of spreading spending jurisdiction among committees began anew in 1932 when the Reconstruction Finance Corporation was created and financed outside normal appropriations channels. Decentralization accelerated during the next four decades, particularly between 1965 and 1975. By the mid 1970s, most substantive congressional committees had authority to report legislation to the floor committing funds from the U.S. Treasury. In 1932, the Appropriations Committees controlled 89 percent of outlays through the annual federal budget process. By 1992, fewer than 40 percent of federal outlays resulted from decisions under the Appropriators' control.

This balkanization of spending authority creates a "common pool" problem. When no one owns a common resource, such as the fish in a lake, there is an incentive for too much fishing, depleting the population. With the budget, the common resource is general-fund revenue. As the Appropriations Committee controls less and less spending, and, correspondingly, other congressional committees control more and more, no one committee has the incentive to restrain spending because the total level of spending is no longer the responsibility of any one committee. To the contrary, the resulting competition among committees to spend results in more spending than would otherwise occur, increasing deficit spending.

#### *B. The Movement Towards Tax Financed Trust Funds*

The creation of tax financed trust funds, most predominately Social Security and, later, Medicare Hospital Insurance, and the placement of jurisdiction over them in the tax-writing committees was the second institutional change contributing to the increase in general fund, and hence total, deficits.

Unlike general fund taxes, trust fund revenues are dedicated to specific programs. Moreover, general fund taxes are generally raised under the jurisdiction of a committee that does not control how the money is spent, unlike trust funds which are raised by the committee responsible for spending the specific fund. Since World War II, general fund revenues have decreased as a percentage of gross domestic product (GDP) with a corresponding increase in trust fund receipts. In the early 1950s, trust fund receipts amounted to little more than 1 percent of GDP, and general fund receipts equaled 16 percent of GDP. By the mid 1990s, trust fund receipts had increased to over 6 percent, of GDP, while those of the general fund decreased to about 12 percent. The rise in trust fund revenues seems to be crowding out general revenues.

Significantly, trust fund programs have not run deficits. Although spending for such programs has increased dramatically, trust fund taxes have increased to pay for that spending. Increased federal deficits have thus occurred in areas in which the committee in charge of raising the taxes does not control the spending.

Important implications arise from the merging of tax and spending authority. In particular, if one committee controls all taxes and benefits, we might expect that both will increase at a relatively higher rate. This conclusion follows because raising taxes, a politically painful step, is made less painful when those who raise the taxes directly obtain the benefit of the increase, through political support from the beneficiaries of the spending. All members of the legislature ultimately vote on taxes and spending, and thus share in the credit and blame. But because committee members exert more influence over the legislation than do noncommittee members, they can more easily tailor spending to increase the credit they receive.

#### *C. Econometric testing*

Dr. Mark Crain of George Mason University and I studied the fifty state legislatures to test whether the dispersal of spending authority among various committees results in significantly greater spending than when one committee controls spending. We also attempted to assess the significance of rules that combine or separate the committees overseeing revenue and spending decisions.

States that have only one committee with appropriations authority should have more control over spending than states with appropriations authority dispersed

among committees. Consolidating control within one committee is an institutional means to overcome the common pool problem; it establishes a mechanism to contain spending pressures. By contrast, states that have balkanized spending authority should experience relatively higher spending, resulting from over-use of the common resource, the state's total revenue. Spending pressures are less controllable, absent an institutional mechanism to internalize spending accountability.

The results reveal that states with centralized appropriations authority have more control over spending than states with appropriations authority dispersed among committees. As predicted, states that centralize spend less, on average, than states that decentralize spending authority. The difference is about 6 percent, holding other factors equal.<sup>2</sup>

The second aspect of our analysis tested the effect on state revenues of combining spending and taxing committees. When these functions are combined into one committee, the legislators who initiate revenue decisions have the most control over how those funds are spent; the taxpayers are the spenders. When the legislators controlling revenues are not the appropriators, the revenue committee members cannot capture as fully the political benefits of their labors, because spending programs are more likely to be designed to benefit the constituents of the appropriators. Thus, the tax committee is less likely to take the politically costly step of raising taxes if there is no offsetting benefit. We would expect that where taxing and spending authority are merged, taxes would be higher.

As predicted, states that merge spending and taxing authority into a single committee have higher revenues than those that separate these responsibilities among multiple committees. On average, states with one committee have higher revenues, per capita, by 28 percent (again all other things equal).

### III. OTHER FLAWS IN THE BUDGET PROCESS

Recognizing that it had lost control over the budget, Congress created a new budget process in 1974. Rather than directly address the central problem of the balkanization of spending authority, Congress instead created a new process with at best a weak ability to control budget totals or various budget programs. (Of course, returning more power to one committee was, and is, a politically difficult step.)

The new process does have some advantages over the period prior to 1974. In particular, the current process facilitates the development of large deficit reduction plans, such as the one Congress passed last year. Nevertheless, there have been numerous such efforts, yet the problem persists. Besides the failure to rest real control in one committee, the new process has several flaws that exacerbate the deficit problem. The first involves the use, or more appropriately misuse, of baseline budgeting. Moreover, the much praised, most recent effort to "strengthen" the budget process, the Budget Enforcement Act (BEA) of 1990, is itself flawed.

#### A. Baseline budgeting<sup>3</sup>

Over the last twenty years, politicians and budget professionals—Democrats and Republicans, liberals and conservatives—have transformed budget terminology into Orwellian doublespeak. Increases in spending are labeled "cuts," taxes paid the government "reduce" spending, and laws that merely continue a policy about to expire are said to "cut" spending. Worse, all these claims seem legitimate to many policy analysts and are too often accepted uncritically in the process.

##### 1. Origins of the baseline

Throughout most of U.S. history, the base used to compare alternative budget proposals was either the levels in the previous year's budget or those proposed by the President. Beginning with the Congressional Budget Act of 1974, more elaborate bases, called baselines, came into play. The Act required a baseline that continued current programs at "the same level as the current year without a change in policy." This baseline was intended to provide a policy-neutral method to project accurately what it would cost in the future to continue government as it exists today. Such a baseline, it was felt, would allow better assessment of the fiscal impact of new proposals than the cruder measures previously used.

<sup>2</sup>We used regression analysis, a statistical technique designed to sort out the relative impact that several independent variables (such as centralized or decentralized committee structure) have on the dependent variable (here state expenditures per capita). Our results are significant at the .01 percent level.

<sup>3</sup>I discuss these issues at greatest length in Timothy J. Muris, "The Uses and Abuses of Budget Baselines," in *The Budget Puzzle: Understanding Federal Spending*, eds. Cogan, J.F., Muris, T.J. & Schick, A. (Palo Alto: Stanford University Press, 1994).

How to define the baseline was unclear, however, and the legislative history gave no precise guidance. Alternative definitions are possible. One is to measure a constant level of government services to determine if a proposed change would increase or decrease government. This view uses as a baseline "current services," meaning a measure of what it would cost in the future to provide the services the government provides today. Other definitions focus on the words "without a change in policy." Under this approach, the baseline puts the government on "automatic pilot," determining how much it would cost to fund it in the future if no new legislation were passed. This view is called "current policy." A third alternative is called "current law." It differs from "current policy" in not including adjustments for inflation of discretionary spending. The current policy baseline has been used most frequently for evaluating and reporting on budget proposals.

### *2. The baseline used does not, and could not, measure current services*

Any baseline that projects the cost of the current level of all government activities into the future is an illusion. There are two major problems. First, events outside the congressional spending process can change the funding level needed to hold government services constant. In other words, because of events outside its control, tomorrow's government can require more or less money than today's to provide the same services.

An example of an event exogenous to congressional spending decisions is the accomplishment of a program's objectives. To hold government activity constant, sensitivity to the purposes of programs is required. If the original purpose of a program is achieved, yet spending continues for a new purpose, then government involvement in the economy has increased, not remained constant. For example, early in the Carter administration, Congress increased job-training funding to help alleviate the impact of a recession. Once the recession ended, continuing the program meant a change in its purpose, not a mere continuation of past efforts.

The second problem is that, even ignoring for such exogenous events, determining what amount will be necessary to fund government at a constant level is a complex matter. Simple formulas such as adjusting all discretionary programs for inflation can fail to measure accurately a constant level of government. Many variables can influence the calculus, and even when current services for a particular program are carefully calculated, experts may reasonably disagree over the correct estimate, thus undermining the supposed policy neutrality and objectivity of the current services baseline.

In any event, it is clear that the baseline used does *not* measure current services. Consider Medicare. CBO annually divides projected growth into three parts—increased caseload, price inflation, and greater use of services. The first two should be part of any effort to define true current services, i.e. how much it will cost tomorrow to fund today's program. But the final category—greater use of services—obviously represents more, not current, services. It is this last category that accounts for the bulk of the projected increase in Medicare spending—over 60 percent. Despite the fact that most of Medicare growth has been in excess of true current services, in the last decade public debate of the program has been dominated by discussion of "cuts."

### *3. Impact of the baseline*

Proponents of the baseline approach both argue its necessity and maintain that "objections [to the baseline system] have more to do with form than substance. . . . In the end, the budget totals are the same whichever approach is used."<sup>4</sup> Yet, any system that fundamentally alters how the public understands political action influences outcomes. Indeed, this pattern continued in the budget deliberations of 1990, 1993, and 1995. The rhetoric that dominated the process was of extreme pain, yet in 1990 Congress expanded Medicare and Medicaid significantly and continued the large increases in domestic discretionary spending that began in the last year of the Reagan administration. The reality of substantial new spending hardly matched the harsh rhetoric of severe restraint.

The rhetoric of the budget is biased toward increased spending. This claim can be reduced to a simple proposition: In dealing with the press and public, would an advocate for a program prefer that built-in increases above the previous year's level be characterized as "current," so that a restraint in growth leaving expenditures well above last year's would be presented as a "cut"? Or, would he prefer to have the debate be over the 10 percent increase assumed in the baseline, or a mere 8 percent increase over last year's spending levels? Particularly given the short time

<sup>4</sup>U.S. Congress, Congressional Budget Office, *A Profile of the Congressional Budget Office*, at p. 32–33 (Sept. 1990).



one often has to make a point—in many cases a 10–20 second “sound byte”—it would be a rare program advocate indeed who did not prefer the current policy language of “cut” to the alternative of defending an annual increase.

The defenders of the current Medicare and Medicaid programs provide many excellent examples. Last year, for example, the Congress made a serious attempt to slow the growth of Medicare. Nevertheless, the annual growth rate was still projected to be in the six to seven percent range, depending upon which plan and whose estimates were used. Yet, because of the rhetoric of the baseline, most Americans thought that the Congress was actually attempting to reduce spending below the 1995 level.

Even when the proposed reform is more modest, critics of the reform use the baseline to devastating effect. On January 5, 1987, for instance, then President Reagan's budget for 1988 was released, and proposed to restrain the growth in Medicare from 63 percent (10 percent annually) in the administration's five year, current policy baseline to 46 percent (8 percent annually). The next day, the American Association of Retired Persons, the American Hospital Association, the American Medical Association, the American Nurses Association, and the Federation of American Health Systems ran the following full-page advertisement in the Washington Post.

The ad featured a large picture of an elderly woman and a young soldier embracing. The following appeared above the picture: During the past five years, more than \$30 billion has been cut from Medicare and Medicaid. Now the administration wants to cut \$50 billion more.

Below the picture, the ad asked: Isn't it time we started defending the home front?

The body of the ad appears to compare yearly increases in defense spending with “cuts” in medical programs. Against the current policy baseline, Medicare and Medicaid had been cut. Yet, in absolute numbers, national defense outlays grew by 110 percent from 1980 to 1987 (\$134 billion to \$282 billion), while Medicare and Medicaid increased by 123 percent, from \$48 billion to \$107 billion. Thus, the medical programs actually grew up by a greater percentage than defense. By claiming that defense was increasing while Medicare and Medicaid were being cut, however, the ad effectively used the current policy baseline to protect large growth in the medical programs.

The manipulation of the baseline exacerbates this bias in favor of spending. When, as in the 1990 budget summit, \$17 billion can be claimed as “cuts” simply by extending current law (and even allow for paying hospitals a higher percentage for capital than previously), when \$9 billion can be claimed as savings over three years by limiting pay increases to 4 percent, when paying hospitals a higher update than they previously received is the largest “cut” in the 1987 budget summit category of entitlement “savings,” and when money can simply be shifted to the next fiscal year to claim savings, a large package of “reductions” can be enacted with little or no impact on actual spending or the deficit. Even in last year's budget act, which clearly was more ambitious than past efforts, about one-third of the “savings” proposed for Medicare could be obtained simply by extending expiring provisions and continuing current policies.

The budget process has focused too much on producing a respectable number of “cuts”; if the cuts merely manipulate the baseline, the political pain, which is greater when programs are actually cut than when they are increased, is lessened. More important, some of these cuts are then used to offset real spending increases or to protect other programs from real spending restraint. Congress frequently pays for new initiatives, which can dramatically increase outlays, by “cuts” from the baseline. In this way, “soft” savings offset “hard” increases.

Created to give policy makers a better handle on budgetary decisions, in practice the current policy baseline has given rise to a charade divorced from fiscal realities. It should be scrapped.

## *B. The Budget Enforcement Act of 1990*

### *1. The discretionary caps<sup>5</sup>*

Proponents of the BEA have claimed that the limits on discretionary spending have been a resounding success in achieving their goal of restraining budgetary growth. The BEA placed ceilings, or “caps,” on the levels of annually appropriated spending, providing separate limits for domestic, defense, and international spending through fiscal 1993 and one limit for all discretionary spending for years since.

<sup>5</sup> For more details on how to measure domestic discretionary spending, see John F. Cogan and Timothy J. Muris, “Changes in Discretionary Spending During the Reagan Years,” in *The Budget Puzzle: Understanding Federal Spending*, eds. Cogan, J.F., Muris, T.J. & Schick, A. (Palo Alto: Stanford University Press, 1994).

When the BEA was enacted, these ceilings were proclaimed as restraining domestic discretionary spending to the level of inflation, and were said to be particularly tight after the agreement's first year. So successful are they perceived to be that Congress has continued them.

Reality, however, is far different. Properly measured, spending growth exploded between 1988, two years prior to the enactment of the BEA, and 1995. Domestic discretionary appropriations grew over 60 percent, or more than seven percent annually.<sup>6</sup> Although spending in recent years was less than in the first few years of the Bush Administration, until this Congress growth has exceeded inflation for the domestic spending category. (Of course, defense spending has fallen since the end of the cold war, an event that can hardly be attributed to the BEA. Indeed, the effect of the 1990 budget deal was to increase short term defense spending above the level Congress was otherwise planning to appropriate.)

#### a. The sources of confusion

There are two major reasons why reality and perceptions are so at odds. The first is that officially-reported budget authority and outlay figures do not measure the monetary size of programs accurately. The availability of means of financing programs other than direct appropriations, including receipts from offsetting collections, obligation limitations, transfers from entitlement programs, and recoveries of prior year spending authority can all increase program size without being fully reflected in annual budget authority and outlay figures.

A truer picture emerges if "budgetary resources" are used to gauge the monetary size of programs. Budgetary resources for a program are the total amount of funds made available for obligation by that program in a given year. This measure includes all the available means of financing listed above. Once this measure is developed, a true picture of changes in domestic discretionary spending can be seen.

The second reason for the mismatch between reality and perception involves the caps themselves. Although the caps are a constraint, their impact on spending growth depends upon the level of the caps. In fact, for many reasons, particularly the level at which the caps were first set and adjustments that the 1990 law requires to be made to them, the caps have not significantly restrained the growth of domestic discretionary spending.

The failure to measure spending accurately and to understand the nature of the caps helps explain the rhetoric and commentary that has frequently occurred about the level of domestic discretionary spending. Throughout the year, from release of the President's Budget through enactment of the appropriation bills, the dominant theme is how tight the caps are. Some commentators, pointing to measures of spending such as budget authority and outlays which, although incomplete, can capture the direction of spending changes, not that while the caps may have been more generous in the past, they are now tight. Yet, when that past was the present, i.e., when the Congress was working on the appropriations now recognized as allowing some growth, the dominant theme—severe restraint—prevailed. Because the caps are both adjustable and are incomplete measures of spending, the seemingly tight caps are revealed, long after the fact, to be not so tight after all. By this time, however, Congress is working on new appropriations, again bemoaning how severely it is restricted.

#### b. Accurately measuring program size

In measuring the size of discretionary programs, reported outlays are frequently equated with total spending. This is incorrect. Outlays are recorded net of certain payments made to the government from the public. Moreover, outlays are recorded only when a check is issued, not when the government assumes an obligation. Outlays for many programs, therefore, occur years after the programs have been funded.

Using appropriated budget authority to measure program size avoids the timing issue, but for some programs, this measure is irrelevant or only one method of financing. Particularly in the last 15 years, other methods have been used with increasing frequency to enable Congress to produce the appearance of budget cutting while the total amount available for spending has been maintained or increased.

One such method is requiring the public to pay a fee for a particular service. Such fees, called offsetting collections, are excluded from reported outlay and budget authority figures, but the agency providing the service is frequently allowed to use the

<sup>6</sup> Because of the difficulty in calculating the growth in offsetting receipts used for domestic discretionary spending, such receipts are not included in these numbers. These receipts have grown rapidly because they are "free" under the caps. Including them would increase the growth rate in the last seven years. See footnote 7 below.

proceeds to cover some or all of its costs. By increasing the fee and reducing the amount of appropriated budget authority, Congress can increase the amount of money the agency has to spend while reducing the agency's budget on the government's books. The use of such fees has become increasingly common, and are funding more and more of the regulatory state.<sup>7</sup>

Another budgetary resource that has been excluded from calculations of budget authority is the obligation limitation. Obligation limitations are used to control programs with trust or revolving funds. Highway programs, for example, are financed through a trust fund that receives money each year, mostly from taxes earmarked for that purpose. A limit on the amount in the fund that can be obligated for new spending, called an obligation limitation, controls program size. Obligation limitations thus serve the same purpose as appropriations do in other accounts, and are functionally equivalent to budget authority. Obligation limitations should be equated with budget authority to compute program size.

There are other methods Congress can use to conceal the true level of spending on discretionary programs. For example, Congress has transferred money from entitlement programs to discretionary programs. Congress can also "recover" expiring funds to spend on new programs. This is money, usually budget authority, that was previously appropriated and obligated. Unless it is "recovered," it will not be spent because it is no longer needed.

### c. Adjustments to the caps

As mentioned above, several adjustments to the caps make them more generous than they originally appeared.

*i. Emergencies.*—Under the budget rules, both as negotiated in the BEA and as reaffirmed in August 1993, emergencies do not count against the caps. This loophole has added billions of dollars to discretionary spending.

There has been much self-congratulatory praise in past Congresses and the Executive Branch about how this provision has been limited to "true" emergencies, such as hurricanes and earthquakes. This praise is misplaced. The emergency exception is designed for unforeseen events, on the theory that no rational budget process could account for them. It is true that the particular emergencies that occur are unforeseen. In a nation as large as ours, however, the fact that there will be emergencies (almost) annually is foreseeable. Whether it is a major hurricane, as in 1990 and in 1992, an earthquake as in 1991 and 1994, riots as in 1992, or major floods as in 1993, it is predictable that somewhere, in some fashion, nature or other forces will usually produce the need for "emergency" spending.<sup>8</sup> Rather than treat emergencies as acts of God for which the budget process should be held unaccountable, these events are, in the aggregate, predictable. An amount, based on past experience, should be set aside as a contingency within the caps to fund them.

*ii. The outlay cushion.*—The drafters of the BEA recognized that budget authority cap does not control all forms of spending. Although retaining the traditional treatment of offsetting collections, and thus allowing increases in such fees to fund programs without counting against the ceilings, the BEA attempts to control obligation limitations through an outlay cap. The cap was apparently calculated to provide outlays sufficient to fund the programs at the modest levels of growth implied by the budget authority cap. The Budget Enforcement Act allows for an additional \$2.5 billion in outlays, however, ostensibly as a cushion to provide for differences in estimating outlays between OMB and CBO.<sup>9</sup> Although some estimating differences still exist for discretionary programs, they have largely been eliminated as, beginning with the Gramm-Rudman-Hollings sequester report in 1986, the career staffs of both agencies have sought to narrow their differences.

The outlay cushion also serves another purpose, namely providing for additional growth in budgetary resources. The cushion provides some additional ability to increase obligation limitations and hence increase the total of budgetary resources. To the extent that the cushion is not needed for estimating differences or other reasons, every additional dollar of outlays available allows for the creation of greater than a dollar in budgetary resources if the programs funded produces outlays beyond the

<sup>7</sup> Indeed, as recently documented by CBO, offsetting collections have grown rapidly as deficits have grown. Between 1980 and 1991, user charges classified as offsetting collections increased two and one-half times. User charges to fund regulatory agencies have increased even faster, by more than five times. See CBO, *The Growth of Federal User Charges* (August 1993).

<sup>8</sup> All years in this sentence are calendar years.

<sup>9</sup> Although not a stated reason, the cushion also allows for some change toward a mix of programs that produce outlays faster than the mix assumed in the original BEA numbers. Budgetary resources produce outlays at different rates. If Congress changes the mix of appropriated budgetary resources toward programs that produce outlays quickly, then more outlays will be produced in the first year from the same amount of budgetary resources.

first year. In fact, the largest program funded via an obligation limitation, highways, produces less than 20 cents in first-year outlays for every new dollar of budgetary resources.

iii. *The budget authority cushion.*—Like outlays, the BEA provides for a BA cushion. Two cap adjustments were allowed. The first adjusted the domestic cap for 1992 and 1993 by “.1 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, 1993 (cumulatively). . . .”<sup>10</sup> The second adjustment is “the amount of new budget authority . . . [that] exceeds the discretionary spending limit . . . due to technical estimates made by the director of the Office of Management & Budget.”<sup>11</sup> Several billion dollars have been added to the caps through these allowance adjustments. (Outlays from the BA cushion count against the outlay cushion as they accrue.) Like the outlay cushion, these adjustments allow for some increase in budgetary resources above the level implied in the original caps.

iv. *Inflation updates.*—The BEA originally provided for very modest growth in the domestic discretionary caps beyond 1991. The caps themselves were to be adjusted for a variety of factors, including inflation. If actual inflation was higher than the BEA anticipated, then the caps would increase; if inflation was lower, then the caps would decrease. In fact, actual inflation was below the BEA's projections, causing the caps to be lowered.

For two reasons, however, these adjustments did not fully remove the impact of the mistaken projections; thus, to the extent the caps were set to grow with inflation, the adjustments allowed the caps to exceed this goal. First, neither the caps for the year in which the mistake occurred nor those for the year following were adjusted. For example, actual inflation for 1991 was not known until after fiscal 1991 ended and most appropriations for fiscal 1992 had already occurred. Thus, only the caps for 1993 and beyond were lowered. Second, OMB read the BEA to force adjustments only for the nonpersonal accounts of discretionary spending. CBO and GAO believe that the adjustment should have applied to all accounts.<sup>12</sup> OMB's position thus caused smaller decreases than a full adjustment would have.

## 2. PAYGO

As part of the 1990 BEA, pay-as-you-go (PAYGO) rules were adopted to insure that certain congressional action on revenue and entitlement spending did not increase the deficit. PAYGO requires that new legislation increasing outlays or reducing revenues be deficit neutral. Thus, such legislation must include offsetting revenue increases or expenditure decreases. If Congress does not act, a sequestration of specified entitlement programs will occur.

Although much praised, PAYGO has had limited impact. PAYGO only applies to policy changes to existing laws. It does not reach mistakes because of inaccurate economic or technical estimates. Simply, PAYGO does not require cost “overruns” to be paid for if the excesses resulted for optimistic or mistaken projections.

Consider the problems government and private forecasters had in estimating the effects on the deficit of President Reagan's first budget. The estimate of the administration, CBO, and private forecasters all greatly understand the deficits that would arise from the first Reagan budget.<sup>13</sup> Similarly, the economic forecast accompanying the 1990 budget deal was highly inaccurate.

Regarding technical re-estimates, one of the best and most recent examples of this recurring problem can be found in the 1990 Budget Agreement. Congress and then President Bush claimed that they were “cutting” health programs by \$35 billion over five years and “saving” \$7.5 billion by extending the current policy regarding patient payment of premiums for Part B of Medicare. Since the 1990 agreement, the Congressional Budget Office (CBO) reestimated the cost of these programs through

<sup>10</sup> The quote is from § 251(b)(2)(E)(i) of Gramm-Rudman-Hollings, as amended by the BEA.

<sup>11</sup> § 251(b)(2)(E)(iv). The quoted language covers 1994 and beyond, when there is only one discretionary cap. Para. 251(b)(2)(E)(iii) contains an identical provision for 1992 and 1993, except that it provides for a separate adjustment for each of the three individual caps. Both sections limit the total BA cap adjustment allowed. For example, for 1994 and beyond, the limit is “.1 percent of the adjusted discretionary limit on new budget authority for that fiscal year.” § 251(b)(2)(E)(iv).

<sup>12</sup> GAO, *Budget Issues: Compliance With the Budget Enforcement Act of 1990* (Nov. 1992).

<sup>13</sup> Incidentally, the record does not support the widely-held view that the Reagan administration used a “rosy scenario” to hide the effects of its first budget. A comparison of the forecasts and assumptions used by the administration finds that, in the aggregate, they did not differ dramatically from those of CBO or the private sector. What does stand out is the degree to which the administration, CBO, and private economists understated the chance and degree of a major recession. See Muris, *The Rise of Large Deficits: What Really Happened in 1981* (unpublished paper on file with the author).

1995 (the last year covered by the 1990 deal) numerous times. Although the number and size of the mistakes should be random, with as many overestimates and underestimates, CBO reported positive technical adjustments for Medicare and Medicaid many times the size of the claimed "cuts." In other words, the "progress" made in restraining growth was eliminated by an actuary's pen—yet no one required additional restraint because of mistakes in the previous estimates.

The fastest growing area of Medicare—post-acute care—provides specific examples of the problem. Consider home health care. In 1988, the estimate for total home health outlays in 1993 was \$3.8 billion; the actual amount was \$9.3 billion—two-and-a-half times the original estimate. Outlays for home health have continued to grow more than 20 percent annually, and the benefit will cost nearly \$20 billion by 1997. What happened? The primary reason behind the growth was an out-of-court settlement HCFA negotiated with provider and consumer groups after losing a court decision concerning limits on the amount of home health services Medicare allows. The settlement effectively ended the limits. HCFA's new policy was enacted without Congressional oversight or OMB review. Again, no penalty resulted.

Similar rapid growth has occurred in the skilled nursing facility benefit, expenditures for which are growing even faster than for home health: about 30 percent annually, now costing over \$10 billion. A key event that helped trigger the unexpected increase was the passage of the Catastrophic Coverage Act in 1988. That law repealed the requirement for a three-day hospital stay before Medicare would pay for skilled care in a nursing facility. In the short period before the Act was repealed, the program's costs nearly tripled. Despite the repeal, expenditures did not return to previous levels and have continued to rise rapidly.

The reasons for underestimation of the cost of certain government programs is not obvious. One major reason appears to be a consistent inability to foresee all of the myriad ways in which beneficiaries will use changes in the law to their advantage. Such lack of foresight is hardly surprising, given that there are thousands of highly intelligent people who specialize in obtaining additional money from the government, and that government estimators are largely unwilling to increase their estimate of specific program costs in the absence of hard evidence.

#### IV. POSSIBLE SOLUTIONS

##### *A. Eliminate, or at least reduce balkanization*

As in the 1920s, we should centralize spending control within one committee. The historical record and our research indicate that reestablishing single committee control over spending authority would have significant effects on decreasing both the level of spending and the deficit. This proposal may be difficult for the Congress to implement because it greatly concentrates power over "pocketbook" issues. However, recent voter disenchantment and the electoral upheaval in the last two elections have put Congress on notice that control of key committees and the ability to direct favors to interest groups is no longer enough to protect incumbents from the increasing desire of voters to see progress on national problems.

If full consolidation is impossible, several steps in that direction should be easier to adopt. Entitlement status should be ended for all programs except earned entitlements, such as Social Security. A new appropriations subcommittee could be created, with jurisdiction over the former entitlements and membership consisting of the committee members with previous jurisdiction. At a minimum, all mandatory programs should be reviewed periodically, with future spending ended without reauthorization.

Control could also be strengthened through a default rule that penalizes Congress and the Executive when they fail to achieve their goals. Although much maligned, Gramm-Rudman-Hollings (GRH) was better than what has replaced it. GRH was imperfect, in particular because the House in 1985 successfully removed numerous programs from its reach. But it did exert pressure to reduce the deficit, producing significant restraint, particularly in domestic discretionary programs in fiscal 1986 and 1988. GRH died because of the unique S&L crises, which exploded deficit projections, and because it was mistakenly ended as part of the 1990 budget deal. It should be renewed, with its coverage expanded to remedy the problems discussed above.<sup>14</sup> Moreover, we should require the use of multiple year targets, not just annual ones.

<sup>14</sup>Another useful step would be to follow the BEA and first sequester the individual areas that cause the deficit targets to be breached.

It is worth noting the relation of enforcement measures such as those of GRH to the proposed balanced budget amendment (BBA). Although the BBA would increase incentives to control the

Continued

### *B. Scrap the baseline system*

By assuming a continually growing level of spending, baseline budgeting makes it harder to consider "killing" a program. Further, it fundamentally alters how the public understands the budget process. Allowing continuous and large increases in programs to be classified as "cuts," it creates the impression of action when nothing significant has occurred. The greatest check on state power can occur only when the public respects and can fathom what the government is doing. Baseline budgeting does not allow either. A device created to promote good government has become instead an exercise in gamesmanship to justify politically expedient results.<sup>15</sup>

Of course, the problems that led to the baseline system cannot be ignored. As now calculated, the current policy baseline does provide useful information for many programs, i.e., a knowledge of what spending would be in the absence of congressional action. But for many other programs, notably discretionary ones, and those parts of mandatory programs that require frequent adjustments, there is no automatic pilot to measure. Rather than pretend to solve an insoluble problem, we should acknowledge that no good baseline is possible.

Although all programs should be measured against the base of the previous year's spending, for those programs that automatically increase the underlying reasons should be understood and evaluated. Breaking down the increases in programs into their components would improve Congressional and public understanding of the dynamics of government spending. For Medicare, for example, the past year's spending could be presented along with the projected increase in beneficiaries, changes caused by the aging of the population, general inflation, medical inflation, increased volume and intensity of use, and the costs of phasing in expansions and expiring provisions. The technical display should be as neutral as possible.

To be sure, such a procedure would be more complex than using the current policy baseline alone, but it would be a more accurate picture of reality. Medicare and many other government programs are not simple. Understanding and making intelligent decisions about those programs requires knowing why and how the programs are growing. If the presentation of these programs oversimplifies a complex reality, it conceals important information and indirectly influences outcomes.

No system of evaluating budget decisions will be entirely immune from distortion and gamesmanship, but abandoning the present system will make it easier to understand the impact of spending and tax decisions on the deficit. We should decrease the likelihood of claiming victories in the battle against deficit while steadily losing the war.

### *C. Modify The BEA*

The BEA should be changed, especially if the more significant changes discussed above are not adopted.

#### *1. Discretionary programs*

First, the concept of budgetary resources should be substituted for the BA and outlay caps currently used. At the least, offsetting receipts should no longer be "free" under the caps. Second, the loopholes that allow the caps to be increased should be ended.

#### *2. Mandatory programs*

PAYGO rules should be adjusted to require the inclusion of adjustments for technical and economic errors. Although correct forecasting is a difficult mix of science and art, not correcting for mistakes means that they are simply ignored. Given the degree to which mistaken assumptions are common and effect the deficit, the country cannot afford to pretend they do not exist. Deficits will only be controllable when responsibility for them is accepted. Requiring that mistakes be addressed does only this.

Mr. KOLBE. I thank all three of you for your testimony. Let me just ask one or two quick questions here and then pass it on to others who have been waiting patiently here. I would like to ask all three of you whether you think the old deficit targets that we had

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deficit, without enforcement provisions, either in its text or in implementing legislation, Congress might eventually ignore the law.

<sup>15</sup> As an adjunct to eliminating the current policy baseline, we should modify the reconciliation process. As discussed above, numerous program expansions were funded in past reconciliations. Indeed, one of the few benefits of the 1990 budget deal was that it eliminated the need for reconciliation, at least for a few years. The expansions stopped for a while. They should be barred from future bills.

worked better than the current pay-go system in setting appropriation caps. Or is there any difference at all in those? Which of those seems to have had a better effect in dampening down the deficit?

Mr. JOHN COGAN. I will go first, Mr. Chairman.

It strikes me that neither system has proved to be very effective. When you look at what happened when we had fixed targets under Gramm-Rudman, you find that as soon as the Congress found it difficult to meet the targets, the targets were scrapped.

What we have now is a system that has no targets and the deficit is free to float wherever the economy or technical factors take it. So I am not encouraged by either of these post-1974 solutions; that is, either the caps and pay-go rules that we have now, or the targets under Gramm-Rudman.

I would say this: if you ask me to choose between the two, I would take the Gramm-Rudman target deficits. At least there is a fixed number to shoot for. Currently there is no penalty if the economy slows a little bit, and the deficit grows. Congress is not forced to take any action whatsoever. I like the idea of having some targets out there that puts us on a path toward a balanced budget, that serve as a fixed goal that Congress can shoot for in its tax and spending decisions.

Mr. RICHARD KOGAN. I think that there are two different reasons why fixed dollar targets are a mistake. The first I spoke of in my testimony: the economy by itself is so much more powerful than the government that it can put us way, way out of the ball park; it can put us in a position where in a single year you have to cut \$175 billion in spending or raise \$175 billion in taxes. That would be exactly the wrong time to do it, since that would be during a recession.

You can try to. If you really, really were sincere about it, the way the government was from 1929 to 1932, you could help turn a recession into a Great Depression. So it seems to me both wrong and unnecessary to try to hit a fixed target.

One could conceptually, however, try to make a target for the underlying structural deficit in which the business cycle is factored out. The problem is that this construct is an economists' construct, and writing a law that tells you you have to follow every changing economic theory about how to measure the cyclical deficit versus the structural deficit is probably not a good idea either.

There is another reason, however, that fixed deficit targets are wrong. The way that Gramm-Rudman I and II actually worked is that OMB and CBO initially, but later OMB, would say what the projected deficit would be relative to the fixed target. If there was an overage, you had to eliminate it. If you didn't eliminate it, there would be a sequestration.

OMB, not being stupid, would not say that, "oh, we need \$175 billion of cuts or \$100 billion of cuts in the next month." They would cheat on the forecast and pick the number that was doable.

That is a reasonable policy, to say, "let's do some reasonable amount more of deficit reduction," but it involves publicly lying about the state of the economy and the state of technical estimates having to do with certain programs.

For example, in the late 1980s under Gramm-Rudman II, for a number of years in a row OMB said the outlays of the Federal Sav-

ings and Loan Insurance Corporation would be zero. Well, you know, they weren't even close. They were off in some years by \$60 or \$70 billion.

This public lying, year after year, corrodes the trust between government and the people. It makes all budget numbers suspect, even when they are honest. Once Congress gets in the habit of lying for good reason, so it doesn't have to kick itself in the foot when there is a recession, it then gets into the habit of starting to lie for bad reasons as well, just because it wants to do a tax cut or spending liberalization. It seems to me it is not worth it.

Finally, I would point out that in fiscal year 1991 and fiscal year 1994 Congress and the President undertook major deficit reduction, successfully, not forced by any targets, and last year you tried again—in a congressional sense, completely successfully—not forced by any targets, but simply by a sense of what needed to be done.

Mr. MURIS. I agree with John Cogan that if you have to choose between the two, the Gramm-Rudman targets are better. But I think we can blend the approaches and make a lot of progress.

Gramm-Rudman had some problems, although it did have a significant beneficial impact. One of the problems was the price the democratic House extracted in 1985 for passage of Gramm-Rudman—exempting most of the entitlements, particularly the welfare programs. Thus, the sequester, i.e. the programs “held hostage,” were mostly discretionary programs, which as we know is a limited set.

Another problem is that rather than requiring multiple year targets, it required just first year targets. Multiple year targets are better.

A third problem is that GRH did not require the programs that are breaching their target to be the programs that are first hit. Congress fixed this problem in medicare last year in terms of the so-called medicare fail-safe. They divided medicare into various categories. Thus, the Gramm-Rudman approach was better, but it can be substantially improved.

Mr. KOLBE. Mrs. Mink.

Mrs. MINK. Thank you very much.

The whole subject of the influence of the budget process, what ultimately happens in terms of the size of the deficit or the increases in revenue and other aspects that impact upon the budget and the deficit is I think a frequently viewed exercise in futility, particularly from the public point of view, because so often the estimates that we are given, that we tout back in our districts, do not pan out in a very short period of time.

We talk about the need to reach a certain deficit, and it appears to be almost insurmountable, the forecast of what we ought to be obtaining. Then we pick up The New York Times and we find out the deficit is even far lower than what any of us had been discussing 6 months ago.

So Richard Kogan's concepts of the economy having a far greater impact on what really happens, rather than any restructuring of how Congress operates, I think is the analysis that appeals to me more. Because we look at what happens whenever we entertain a hearing with the head of the CBO to chastise him because his esti-



mates were wrong last year and to demand an explanation of why he could be so far off.

So I think what really we have to do is find a method of developing a budget resolution which more clearly takes into account what the economy might be doing and how it would impact on the budget forecast. If we could do that, it seems to me we would be interpreting the budget situation in a much more acceptable, knowledgeable way to the public—unless the budget process is just for us and for bureaucrats.

I would like to have the three of you comment on that approach.

Mr. RICHARD KOGAN. In one sense, it may be that the budget process is just for Congress. That is to say, it may be that the purpose of the budget process is to strengthen the role of the leadership in getting a coordinated plan passed.

From the public point of view, the public doesn't need to know whether committee X was dragged unwillingly into reconciliation, or enthusiastically and voluntarily wanted to cut the program in question. All it really needs to know is whether the program cuts are wise or unwise, how they contribute overall towards making the deficit lower than it would otherwise have been, how they compare to other program cuts in other areas so that there is a sense whether the plan is fair or unfair.

The process we use is the one of gaining cooperation, so that a governing majority can actually govern, rather than be factionalized to death.

I don't disagree with Dr. Cogan in saying that factionalization definitely existed during times in our history. I think this period is one in which we have managed to get an adequate amount of centralization. I merely disagree with him in saying that factionalization was the main reason we ever had big deficits.

Mr. JOHN COGAN. I wouldn't dispute the notion that the economy is important in driving deficits up, driving deficits down. I certainly wouldn't dispute the proposition that political will is also powerfully important in determining deficits.

The process makes reducing the deficit either easier or more difficult. My point about the process is the way it operates now is just a lot more difficult to get fiscal discipline and to get to a balanced budget than it would be if you had a centralized process.

When I look back over history, I do see the importance of the economy. But when I look at the data over the last 40 years, what we see are deficits in each decade after World War II rising as a percentage of our gross domestic product, rising as a percentage of our national income.

Roughly each decade, from the 1950s, to the 1980s, the size of the deficit relative to our national income doubled. There has been some attenuation of that so far in the 1990s. That is a good sign. But it has occurred, this rise in the deficit, whether we have had good economic growth, as we had in the 1960s, or whether we have had slow economic growth as we had in the 1970s. The deficit keeps rising, largely because of the incentives I think under which Congress works.

The other Mr. Kogan stated that he didn't think that the government policy could affect the performance of the economy that much. That is where I really disagree. Productivity in this country has

grown at about a percent a year since the early 1970s. Prior to that it grew much faster. As Mr. Kogan said, the growth in the economy is related to the growth in productivity.

But I do believe that the slackening of the growth in productivity is due to tax policy, it is due to regulatory policy, and it is due to fiscal policy. Each one of those has combined to shrink the growth rate in our economy.

So when you think about the importance of the budgetary process in producing outcomes, one of the most important outcomes of the healthy budgetary process is policies that produce a healthy economy.

Mr. MURIS. Let me say briefly that the problem of communication with the public is central. We have a budget system that feeds cynicism. We have a system that says 7 percent growth is a cut. We have a system that says paying people 3 percent instead of 4 percent is a cut. We have a system that allows inordinate manipulation. That breeds cynicism, and that is a problem.

Mr. KOLBE. Thank you. Mr. Largent?

Mr. LARGENT. Thank you. I have a couple of comments and then several different examples of budget process reform that I would like to get brief comments from each of you on. But first a couple of comments.

Dr. Cogan, you talked about centralized versus decentralized spending authority. I think that you are right. But just understanding a little bit of the political ramifications of how we would centralize spending and how you begin stepping on committee Chairmen and all that sort of thing, that it almost falls into the realm of not achievable.

But I believe I would be interested, I think it was Mr. Muris that talked about a study, you looked at the decentralized States versus centralized, and the decentralized States spent more per capita. I would be interested to know how those studies would reflect on the States that had a, within their State constitution, an amendment that they had to balance their budget, as opposed to those States that did not have a State constitutional amendment to balance the budget.

Mr. MURIS. We ran that as a variable, and that depressed spending as well.

Mr. LARGENT. One of my thoughts, was that if it is unachievable to rearrange committees in such a way that internally you build a system that is centralized to control spending, is it possible to have some external pressure through a constitutional amendment, which we tried to do, as you know, here this last year, through a balanced budget amendment to the Constitution, will that work? That is one question.

Another comment that I have is that every time we have economists and other people come before this committee, they always talk about deficit spending as a percentage of gross domestic product. Maybe I am going to reveal the fact that I am not an economist. But I really believe that deficit spending as a percentage of gross domestic product is one of the most misleading statistics that we see.

I will tell you why. In some respects I think it is like talking about the number of highway traffic deaths and talking about it as

less than 1 percent of the highway traffic deaths that were occurring were in Studebakers this last year. Isn't that great news?

I think it is almost irrelevant, and I will tell you why. Because I believe, as you mentioned, there is a relationship between the strength of the economy and deficit spending. The stronger the economy is, the lower the deficit spending is in relationship to it.

So at the very time that we should be balancing the budget, while the economy is strong, we have the least incentive using this statistic to do so. And then when the economy goes sour, everyone is saying that we can't balance the budget now because the economy is so poor—so I think it really is a misleading statistic, and one that I try to pay very little attention to, frankly.

There are about three or four things that I think would help in the budget process. I would solicit your comments about these things, as well as the comments that I just made. If you want to just take a pencil and write them down, then each of you can address them.

The first one is one one of you mentioned. As you know, the President vetoed the budget this year. That is a false statement. The President did not veto the budget this year, because the budget, as you know, is a resolution that we agree to, the Senate agrees to, but the President does his own budget, we do our budget, and the two never meet until late in the year towards the budgetary year-end.

What about making the budget resolution a law, where we agree to it, the Senate agrees to it, we send it to the President very early in the process, in February, so by March, we have brought our heads together on overall spending, and it is set in law, and now the argument and debate for the rest of the year is how is it appropriated among the different spending categories that we have to meet?

The second issue, biennial budgeting. One of the things I have noticed as a new Member of Congress is by the time we have passed the budget, it is almost time to begin the next budget. So there is very little opportunity for the committees who actually have oversight over different categories to actually perform realistic budget oversight responsibilities.

The third thing, entitlements. Everyone knows that about 51 or 52 percent of the budget today is entitlements. What about eliminating entitlements and making all entitlements like discretionary spending where every year Congress has to vote on how much to spend in these entitlement areas so we put our feet to the fire. Or what about entitlement caps? That is another approach suggested.

The last one is emergency spending. We can do a pretty good job of managing discretionary spending in particular, but we always have emergencies. Almost anything qualifies these days as an emergency. But what also happens is a lot of money is spent for nonemergency items as that particular vehicle moves through Congress. So I know a lot of States, Oklahoma is one of them, have a rainy day fund that puts money aside and only allows the money to be spent for real emergencies and nothing more. You can't add anything to it that is outside the realm of the real emergency.

That is it. I would be interested in all of your responses.

Mr. JOHN COGAN. Let me quickly go through each one of your suggestions, Mr. Largent.

First, joint budget resolutions, that is, making the budget resolution a law. I like the idea. I think it would be a good way to start out the process. I think it would firmly place in everyone's mind what has to be done. It would certainly make the job of putting together a budget resolution for the Budget Committee much more difficult, because you would have to involve the executive branch, whereas now you do not. But I think that the rewards of a joint budget resolution would be worth it.

Biannual budgeting, I am not really sure I like the idea. It strikes me that if Congress goes to biannual budgeting, it will end up operating government by supplemental appropriation. What you will have is a situation in which the Congress will try to plan for 2 years, but there would be some unexpected event and that will lead some Member to introduce a bill raising funding for a particular program and the bill will be quickly Christmas-treed.

On entitlements, eliminating entitlements, especially appropriated entitlements, that is certainly one way to concentrate spending jurisdiction quite a bit. If you were to take all of the appropriated entitlements, excluding programs that are trust funded, that are entitlements, and remove the entitlement authority, then automatically the control over spending for those programs would revert to the Appropriations Committee. And in that appropriations process, the Appropriations Committee would weigh the merits of increases or decreases in those appropriated entitlements versus other programs. There would be a conscious weighing of, let's say, an increase in medicaid expenditures or an increase in AFDC expenditures against an increase in Head Start or in other job training programs.

Now with this decentralized system where AFDC is handled by the Ways and Means Committee and medicaid is handled by the Commerce Committee, you don't get the weighing of those programs against an appropriated program that is exclusively appropriated by the Appropriations Committee. So I like the idea of trying to diminish or eliminate as much entitlement or mandatory spending authority as one could. I think it will lead to better decisionmaking.

Mr. KOLBE. Do either Mr. Kogan or Mr. Muris have anything to add to that?

Mr. MURIS. I agree on making the budget resolution a law, but we need a default mechanism. We need to put something in place that says what will happen if they cannot agree.

On biannual budgeting it would make a big difference whether the year you did it was an election year or non-election year. John and I have done a study of appropriations and there is a big difference in election years and non-election years. Even if you did it in non-election years, however, you probably could not stop large supplementals in election years.

I agree on eliminating entitlements, especially appropriated entitlements. For the authorizers you could create a new subcommittee on appropriations and let those people who were authorizers on to that subcommittee.

You mentioned capping entitlements. As a default mechanism, the caps are useful. Again, substantive changes are needed. It depends on what substantive changes are involved.

Finally, on emergencies, and this is something that John and I have written about as well, emergencies in the aggregate are predictable. Individual emergencies are not. But the set-aside idea is something Congress should do, and on balance would reduce spending.

Mr. RICHARD KOGAN. Going quickly through the four points, not in order: with respect to a joint budget resolution rather than a concurrent budget resolution, I don't think that would make much difference. When the President and Congress are in basic agreement on the budget, you don't need a joint budget resolution. A concurrent resolution puts together a plan which he will ultimately sign the implementing legislation for—appropriation bills and reconciliation bills. When they disagree, having a joint resolution will allow the congressional process to be delayed even longer and may work to Congress' disadvantage. I imagine Tim's idea of a fail-safe is a reasonable compromise.

With regard to biennial budgeting, if the States are laboratories, they have shown over the years that mostly they have gone from biennial to annual budgeting. Their own experiences have led them to believe that is the better way to go.

With regard to emergencies, there are two different answers. The first is that we should budget in some ways for the types of emergencies that we can't predict in specific but we can predict in general. We know we are going to have to spend money on fighting forest fires each year. We don't know how much and when. It can vary from year to year. But the budget should include and should count against the discretionary spending caps some reasonable amount, like the 10-year average, of what this costs. You shouldn't be able to fund firefighting at zero, call it a savings, and then use the emergency funds when, sure enough, you have a forest fire, because everyone knows you are going to get one, two, three, or five.

On the other hand, the government does something critically important, much more important than fighting forest fires. It is the insurer of last resort for risks too big for the private industry to take. If Hurricane Andrew had hit 10 miles further north or the Northridge earthquake had hit 10 miles further south, we could have had \$50 to \$80 billion worth of damage. You can't realistically use a special fund with a little bit of money going into it each year and then building up, to cover that cost. We have to accept the fact that when there are very rare, highly unusual circumstances, the government will simply have to do the repair work, and in that year temporarily the deficit will rise.

The real issue with the deficit, as CBO points out, has nothing to do with emergencies, but rather the long-term, underlying structure leading to permanent big deficits, which by definition are unsustainable. That gets me to the last point, the question of eliminating entitlements or putting on caps.

As I have said repeatedly, the budget is a hostage to the economy. This is true on the spending side and true even more on the revenue side. To take a simple example, unemployment compensation is a program which is supposed to be responsive to the econ-

omy, supposed to cost twice as much during a recession as it does during normal times. It would be incredible to me to set up a system whereby during a recession people had to have a 3-month waiting period before they could get their unemployment compensation checks, or all benefits were automatically cut in half across the board. This is a program we are supposed to let fluctuate, supposed to ignore the fluctuations; we should address the issue of whether the fundamental underlying average is sustainable or not.

Entitlement caps, with annual limits, miss the whole point. They make us responsive at the wrong times and in the wrong way to fluctuations, as opposed to what we really need to do, which is fundamental entitlement reform on those entitlements that look as though over the long run they will grow faster than the economy, that is, medicare and medicaid.

As I said to Tim early on before this hearing started, in a different way, perhaps the most useful budget process hearing you could hold is a hearing on medicare and medicaid, a substantive hearing, not a process hearing.

Mr. KOLBE. Thank you. Ms. Myrick.

Mrs. MYRICK. Mr. Largent covered most of my questions. I was thinking along the same vein.

I wanted to say a couple of things. Thanks for your input. I have only been here a short time, but to me this budget process is extremely confusing, and I think it is that way on purpose.

Secondly, I have also been studying, as Mr. Kogan referred to, the centralization and decentralization. Mr. Kogan, I understand what you said relative to that process, but it seems to make common sense. It is no different than your own budget and the way you handle it in your family. But I think the main thing we have been dealing with here in Congress, and continue to deal with it, our biggest underlying problems, what you said about the 1919 select committee they set up and some of the comments out of that, I don't remember who said it, but that we needed to submerge personal ambition for the common good. That is the biggest problem we deal with here in Congress. Until we can get over that, we are going to have great difficulty in anything we try and do to change the budget process.

Mr. KOLBE. Do you have any questions?

Mrs. MYRICK. No.

Mr. KOLBE. Mr. Hoke.

Mr. HOKE. Thank you, Mr. Chairman.

I want to go back to what Mr. Largent was talking about earlier, and that is this issue, his observation, that he didn't think that the deficit as a percentage of GDP is the number to look at.

I tend to think he is right on that, and that the real number to look at is the percentage of total government sector, public sector spending, the amount of total government public sector spending as a percentage of GDP.

The numbers are roughly—24 percent is the Federal—and then different folks come up with different numbers in terms of State, local, community, blah, blah, blah.

My question is, first of all, if you could comment on whether there is a number we could agree on that is the percentage of pub-

lic sector spending compared to the full gross domestic economy, and if you agree or disagree or have thoughts about what the danger level of that percentage is in terms of really putting the brakes on private sector growth, job creation, development, et cetera. Because the number that I have heard is that when you approach 40, and I think that is where we are at, is that that is a tremendously problematic situation. But, you know, there are differing opinions on this and I wonder if you could give me the value of your insight on that.

The second thing I would like you to address is this question of actually folding the committee system into a different form. I have asked a number of different people who have testified before this committee about this, and instead of having a separate—we have three tracks, the budget, the authorizing, the appropriating. They are all related, but it strikes me often most of the time we have three tracks is we have 435 people and everybody has to have something to do.

So you can't have really large committees, because they become unwieldy. But it seems to me there might be a lot of value in increasing the—in eliminating the authorizing and appropriating processes as separate tracks, having one master kind of policy, not policy, but number setting committee, such as you can call it the budget committee or appropriation committee, that sets the numbers up front, and then gives the other committees the amount of money overall they can spend, and it gets both the policy as well as the spending decided by one group of people, instead of this process where you have these separate tracks.

Anyway, I don't want to use up my time with the question; I would like to hear your answers.

Mr. RICHARD KOGAN. If I can start with the question about the spending as a percentage of the economy, when people talk about percentage of the economy, I don't think it is an attempt to make the numbers look small. For example, a deficit that is 3 percent of GDP is, in my mind, very big, if this is the underlying structural deficit. It is much too big. So it wasn't to make it sound small. If there is some other way to blow it up to see that is something worth worrying about, then I think that is the point.

You are also right in that it looks artificially small; it looks as though you don't have to do much.

Mr. HOKE. Wait, wait. My question is, how much is it? Is it 40 percent; 25 percent? I am not talking about the deficit as a percentage. I am talking about total spending as a percentage of GDP. You can answer Mr. Largent's question on another time.

Mr. RICHARD KOGAN. Excuse me.

Twenty-one percent of GDP is total spending, the lowest since 1979. State and local spending is probably around 11 percent of GDP. I know 11 percent of GDP is where their revenues are, and they are balanced over time. So in total we are at around 33 percent.

This is, of course, lower than most other developed countries, and it is probably good for the United States that it is lower.

The question really is whether this 21 percent is outrageous.

Mr. HOKE. Not outrageous, whether it has a drag on the economy. That is really the issue.

Mr. RICHARD KOGAN. If so, it is a smaller drag on the economy than the 22 percent we were seeing during the 1980s.

Mr. JOHN COGAN. I don't have a magic number for you, but I will tell you this: Given the structure of spending, the increases in spending that we have seen do have a harmful effect on the economy in the following sense: Most of the growth in expenditures over the last 30 years have been a growth in transfer payments. These transfer payments have disincentive effects in them. In welfare programs, the disincentive effects are obvious. Social security induces young workers, to save less and older workers to retire earlier. Both welfare programs, social security programs, and most other transfer programs reduce the growth in productivity. They act as a drag on the economy.

Mr. HOKE. You are saying, then, it is the policy, the substance underneath that is much more important than the percentage?

Mr. JOHN COGAN. I do believe that. You can think that government can make valuable investments in individuals, and those investments can raise future productivity.

Mr. HOKE. What do you say to the people that say, look, the moderate or the liberal always wants to say the problem isn't that it is the government trying to do it, it is just that we haven't gotten it right yet. We just haven't done it properly. We haven't pushed the right buttons. We haven't tweaked it right.

Mr. JOHN COGAN. I don't think that is a proper characterization at all. The problem is that we spent so much money on activities that have a counterproductive effect, and that is how government spending slows the growth in the economy. That is it. You take a productive private sector—

Mr. HOKE. That assumes that there is a way to spend that money in a way that has a positive effect.

Mr. JOHN COGAN. Yes, and I think for some programs, there is. Go back to the 1950s and look at highway programs. One could make a plausible case that the highway system was an investment that was valuable for the productivity of the country. But highway programs are a very small part of total spending now. The growth in total spending is a consequence of transfer payments.

My point is that it is those transfer payments that are the source of our slowing economy, at least the part that the government contributes. Now, a lot of people will debate the issue as to whether the problem for the economy is deficits or whether it is spending, which is a question that I think you raised.

My sense is that the economic problem of slow productivity growth, given the structure of spending, is influenced by spending first and deficits second. And the reason for that is when you spend more, it doesn't matter whether you tax money out of the private sector, or whether you borrow it. It is gone from private sector productive purposes and it is transformed into relatively unproductive uses. So that is what slows the economy. The deficit is important, but it is of secondary importance to the total level of spending.

Mr. KOLBE. Mr. Walker.

Mr. WALKER. Thank you, Mr. Chairman.

The longer I have been around the process, the more I have come to realize one of our problems in this whole budgeting procedure as well as the appropriations procedure, the spending, the dealings



with the administration, is that we tend to deal too much with funny money numbers, the projected numbers that we have, and not with real figures.

I am wondering from your perspective, having studied this over the long term, what you think the effect would be if we dealt purely with real numbers? As an example, if we said the government could spend no more than that which it actually collected in revenue in the previous year? So you weren't dealing with what the projections were of how much money the government was going to receive. You took as your baseline figure that which the government actually took in.

Let me just pose that as a question. What would be the impact if you started to deal in real numbers in that way?

Mr. JOHN COGAN. I think it is a marvelous idea. You start with working with something that is factual. Nobody can disagree with that. To base the level of spending on the actual level of revenues I think is a wonderful idea.

Those people will say, wait a minute, what if we have an economic recession? Do you want to really cut spending during an economic recession, because your revenues fall? The answer is you probably don't. But we didn't run up a \$4 trillion debt by simply running deficits during economic recessions, and we are so far from balancing the budget now that I think the arguments against tying the actual level of spending to the actual level of revenues are not very compelling.

Mr. WALKER. Let me deal with the recession issue for a second. It seems the fact we do it the way we do, we tend to pump the money into the economy when it is recovering, not during the recession. The lag time in what we do in appropriating and budgeting in Washington is such that we usually don't hit the target of the recession. The country is actually coming out of the recession by the time Congress has gotten around to putting the spending programs in place to bring us out of the recession. So the fact is you don't have an economic stimulus effect. What you tend to have is an inflationary effect by pumping too much at a time when the curve is headed back upwards any way.

Mr. JOHN COGAN. That is another excellent point. Back in the early 1970s, OMB did a study of the countercyclical effects of infrastructure programs. What they found was that the spending actually occurred as the economy was on the upswing. I know in the 1980s, when we went into the deep recession of 1981-1982, the bulk of the supposedly counter-cyclical spending, including supplemental appropriations and additional unemployment insurance benefits, occurred after the recession was over.

Mr. MURIS. Adam Smith once said that there is a lot of ruin in a nation. He did not have the budget process in mind, but it would seem to be a good example. We need to do something fundamentally different, and obviously focusing on what we actually have would help.

One way to tie this together is to understand that focus on what is happening right now is fundamentally misleading. In the short run, and this happened at the end of the 1980s as well, when you are at the end of an expansionary cycle, we are in pretty good shape. As several people have noted, however, in the future we are

headed toward a brick wall at 90 miles an hour and doing very little to change course.

Mr. RICHARD KOGAN. I think your comment about deliberate congressional action in response to recessions by creating public works projects, for example, or other supplemental appropriations, is right on target. History has shown that it takes Congress a little while to respond. The nature of the institution is inherently conservative, and I think broadly speaking that is useful. But it means it is not a good body to make deliberate policy decisions in responses to the business cycle. Therefore, I would suggest that Congress just doesn't do it at all, and instead allow automatic responses that occur instantly simply to occur, and not worry about them.

Most particularly, when the business cycle goes into a downturn, revenues will plummet even more in proportion than the business cycle will turn down, and we should just let that happen and not worry about it, which is why I wouldn't tie spending to the actual level of revenue, but rather perhaps to a long-term revenue trend.

Mr. WALKER. Just let me respond. But the problem is what we do is then we base our long-term trends on economic projections that in political years tend to get more optimistic and then when you look out in the long term, instead of dealing with real numbers, but you begin to deal with projected numbers that no one can really justify. Yet we plan programs based upon projections rather than reality.

Mr. RICHARD KOGAN. That is real risk. CBO, I think perhaps because of one or two bad experiences, has become very cautious over the last decade. I approve of that.

My own sense is that the economy might grow over the next decade a little bit more than CBO says. But I will be perfectly happy to budget on the basis of what they say, and if things turn out to be a little better, all to the good.

I think really that is the approach that prudent budgeters should take: to err on the modest side with respect to where you think revenues are coming in, and be happily surprised. Assume that all new spending programs will cost a little bit more than you think they might, and be pleasantly surprised if they don't.

Mr. WALKER. Thank you, Mr. Chairman.

Mr. KOLBE. Mr. Largent, do you have further questions?

Just one question before we wrap up. There has been a lot of talk here about the effect of the economy versus the Budget Committee and centralization and the process, I should say, the process versus the economy and its effect on the deficits.

Dr. Cogan did refer to this, it seems we really miss the mark when we get into that discussion. Really if you want to look at the origin of the deficits we have, you have to go to the 1960s and the creation of the entitlement programs that are really the ones that drive the spending and thus drive the deficit today.

The discretionary spending that falls into the Appropriations Committee by any measure is a measure of the budget, it is a measure of the total budget, as measured by a percent of GDP, continues to shrink, to get smaller and smaller. But the entitlement programs continue to grow. Nothing that we can do, talking about centralization versus decentralization of the process, a 2-year cycle,

combining authorization and appropriation, is really going to make much difference if we don't figure out some way to get a handle on entitlement programs that grow like topsy. I would be interested in your response to that statement. Dr. Cogan?

Mr. JOHN COGAN. I wouldn't disagree with you, but I would say when you think about entitlements, think about decentralization. Because when an entitlement program is created, it is placed into the hands of an authorizing committee as opposed to an appropriations committee. So they are really the same phenomenon.

I have always wondered whether the budget problem really is due to entitlements per se or whether it is due to the fact that you have special interest committees that have that entitlement authority. It is the special interest committee that does not have to weigh the merits of the program against any other program in the budget, and so it becomes an advocate for its programs.

Mr. KOLBE. So you really see it as the same thing, entitlements and decentralization being the same thing.

Mr. RICHARD KOGAN. I think your comment is right on point, which is that it is the substance of the programs, it is the substance of tax and spending law, that is at issue, rather than the process.

You generalized it into entitlements, and I think it would be helpful if you particularized even further. Medicare and Medicaid, as I said before, are growing faster than the economy. They have been for three decades. They are projected to continue to do so indefinitely.

We understand what is going on with Social Security. I am going to retire some day and break the bank.

But leaving that aside, other entitlements are not like that. Take food stamps, for example: food stamps is not growing faster than the economy. The earned income tax credit is not. Civil service and military retirement are growing slower than the economy, and so on and so forth.

The problem isn't entitlements per se, it is Medicare and Medicaid. And there is a structural difference between, say, Medicare on the one hand and food stamps on the other hand. In food stamps, we say, "here is the dollar benefit that a poor person will get in terms of food stamps". We index it for inflation so that the real value of it stays unchanged over time. But that is it. The only reason that food stamps would grow faster than the economy is if the poverty population grew faster than the economy. It isn't, so therefore there is not an issue.

In Medicare, in contrast, instead of saying, "here is the dollar benefit," we say we will pay whatever medical science will charge.

The nature of what we have committed to is very, very different in those programs, and really the challenge is to see if we can get a humane way to make Medicare and Medicaid more like food stamps and the earned income tax credit.

Mr. MURIS. Let me end on an optimistic note. Several questions have said that centralization is politically hard, but maybe we could end some entitlement status. They really are the same thing. Congress took some steps this way last year, even though the President disagreed, to end entitlement status of as many programs as possible.

Mr. KOLBE. I want to thank all of our panelists for their excellent presentations today and for the contribution to our understanding of this. I hope that other Members who were not here today will have a chance to study their testimony.

With that, I would ask, without objection, the full statements of our three panelists will be made a part of the record. Thank you very much for your participation.

[Whereupon, at 11:40 a.m., the committee was adjourned.]

# HOW DID WE GET HERE FROM THERE: REFORM OF THE FEDERAL BUDGET PROCESS

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THURSDAY, AUGUST 1, 1996

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE BUDGET,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:05 a.m., in room 201, Cannon House Office Building, Hon. John R. Kasich (chairman of the committee) presiding.

Present: Representatives Kasich, Walker, Herger, Allard, Miller, Smith of Michigan, Inglis, Nussle, Neumann, Largent, Myrick, Shadegg, Sabo, Stenholm, Orton, Pomeroy, Browder, Olver, and Rivers.

Chairman KASICH. The Budget Committee will come to order, and we have with us some of the most colorful, articulate, smart, dynamic, young, attractive witnesses that we have ever had here in the United States House. It is exciting to have Joe Barton with us. Joe is like a mad dog on this subject, and I have to say that I really was amazed at what he did down in Texas when he had his Congress—he and Pete Geren did an incredible deal, but Joe has been interested in budget process reform probably not before Chris Cox, who has been interested in it—Chris, did you write your dissertation on the budget process? He does know everything there is to know about budget process.

Mr. COX. It said something about it on my birth certificate.

Chairman KASICH. There you go. And then Charlie Stenholm, who I had the great pleasure of working with in the last Congress on this issue, and Charlie has been involved in this stuff since the Ice Age. And, of course, Bill Orton, who I have to concede is one of the sharpest guys we have in Congress. He is very smart. I hate it most of the time, but he is a smart guy. But I do know he will vote for every tax cut we bring to the floor—no, I am just kidding, Bill.

Anyway, how do we want to do this? Why don't we let Chris go first, and then go to Charlie, and then Joe, and then Bill. And Mr. Nussle will chair this once I have to leave for this meeting with the Speaker.

So, Chris, it is all yours.

## STATEMENT OF HON. CHRISTOPHER COX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. COX. Well, thanks very much for holding these hearings—

Chairman KASICH. Chris, could I—I know that we don't have a lot of members here, but we intend to—I don't know if we are going

to pass a bill this year. Maybe we will. I need to visit with you all privately to figure out how you want to proceed. I don't think the Senate is going to pass anything. But, frankly, we ought to get a package together, and if we don't get it done this year, we ought to drop it the first day of the next session and then just zoom it through, and then the Senate will have no choice. Maybe we can spend some time thinking about it.

We ought to probably have a private meeting with these four gentlemen to talk about how we should proceed because I would love to see a bipartisan bill.

Mr. Cox.

Mr. Cox. Just now I am chairing the House negotiators in our terrorism task force, and strangely enough, it appears we might be able to put together a bill and pass it in 3 days. Now, I wouldn't think normally Congress is capable of doing things like this, but there are a lot of people who want it done. I have to tell you I have some reservations on that particular subject about writing a law that fast, but if you can come up with major legislation that hasn't been thoroughly considered in 3 days and pass it through the House and the Senate and have the President sign it, then arguably budget process reform, which we have been carefully studying and talking about and drafting legislation on for several years, can succeed just as well.

I think it is worthwhile since we all, certainly the chairman and the ranking member and all the members of this panel, have all talked about this before. I know I have appeared on panels testifying before with my colleagues who are here this morning. It is worthwhile to put it in a more current perspective and asked ourselves, now that the 104th is just about winding down, how did we fare in the budget process?

I would have to tell you that the Budget Committee has done well because of the sheer will of its members. But the will of that leadership has been frustrated at every turn by the ramshackle process itself.

We have to ask ourselves whether the Budget Committee has teeth, whether the budget process that the committee in the Senate and the committee in the House are responsible for is something that the rest of the Congress is living within. And I think the answer is no. In fact, I would argue that the rest of the Congress treats the budget process the way that school children treat a substitute teacher. We all remember what happened when the substitute teacher came in. The spit balls were flying; kids would fly out the windows; everything would be going on in that classroom except what was supposed to be happening.

When we pass a budget resolution, it is a non-binding resolution, and unfortunately, nobody pays much attention to it, least of all the President of the United States.

Late in our budget process in the 104th we started talking to Bill Clinton about whether we were going to have a 5-year balanced budget, a 7-year balanced budget, an 8-year, 9-year balanced budget or what have you. This was long after we had passed our own legislation.

It is exactly backwards. You have got to do that stuff up front. So one of the basic fundamentals of budget process reform is to

have a binding budget law early in the process, not a non-binding resolution that is toothless but a binding law, signed by the President. Not only does it cause the rest of Congress to have to pay attention, but it also causes the President to get on board at the beginning rather than at the end. And, frankly, these things are a lot easier to resolve in the abstract than they are in the particular.

If you can get Democrats and Republicans to agree on an overall game plan, you are going to succeed. But if you do all the little bills first and then try and force it all into an overall game plan, there is no way it is going to work.

Every single one of us here has different priorities for our districts and, I would venture in some respects, for the country when it comes to how we spend our money. But I think all of us could agree, if you could do this at a sufficiently high level of abstraction, what size the Federal budget ought to be next year, what share of GDP ought to be occupied by Government spending. Questions such as these that we call macroeconomic decisions, we could resolve it that way. A budget process that has a binding budget law up front signed by the President is going to be superior to what we have got right now.

But how do you do it? How do you enforce it? We can say it has got to be a joint resolution, but would it ever happen? Wouldn't the President and the Congress bog down in negotiations? Wouldn't we get behind in our schedule? Well, of course we would unless there are enforcement mechanisms.

So the first thing we have got to do is make sure that everyone has the same incentive to pass that budget law ahead of schedule before anything else happens. And the best way to do that is to tell every single committee and subcommittee of the Senate and the House that no spending bills are in order until you pass that budget law first.

Congress institutionally and I would say constitutionally spends money. That is what Congress does. And if you deprive a fish of water, if you deprive a plant of sunlight or one of us of oxygen, we react rather quickly. If you tell Congress that it can't begin its business of authorizing and spending legislation until that budget law is first in place, there is a powerful hammer to get it done.

At the same time, you don't want to give the President an upper hand in the process, so you make sure that shutting down the government or foot dragging is no longer an option. An automatic continuing resolution can operate in the background to make sure that no one profits from doing nothing, because each of us in the Congress and at the White House will have our own fiscal priorities for the coming years.

We need to make sure that we can't waive this process; because we are not amending the Constitution, we are just passing a statute. And Lord knows every single budget bill that we have had in the past has been evaded by people who have a lot of interest in spending money outside the strictures that we might seek to impose.

I have discussed with the Rules Committee members, with the chairman, and testified at the hearings on this provision, stripping the Rules Committee of any jurisdiction to waive the budget re-

forms that we pass. Those waivers would have to occur on the floor of the Senate and on the floor of the House with a two-thirds vote.

In fact, breaking any parts of the budget reforms that we enact must be enforced by supermajority vote requirements, must be inhibited by supermajority vote requirements. Congress should be permitted to enact spending legislation in excess of the legally binding budget that we pass only with a supermajority vote in both the House and the Senate.

We ought to give the President the authority to enforce the law. Now, we have had some discussions about line-item veto—in fact, gave the President for the first time line-item veto authority of late. But line-item veto authority is a binary choice: yes on all the spending, no on any of it. It is a light switch, on or off, and it doesn't give the President the tool that he needs to enforce the law that Congress passes. And so line-item reduction is a new tool that the President should have to pare back any over-budget spending to the level that Congress set in its own budget. This is a more refined tool. It is laser-like. It is surgical. And it gives the President the constitutional role that he ought to have enforcing the laws that Congress passes rather than giving him a weapon to impose his own fiscal priorities on the rest of the Congress.

Finally, we ought to make sure that our budget discussions are honest. We ought to make sure that there isn't a great deal that operates outside of the budget. I suggest that we make more sturdy our ban on so-called baseline budgeting. In today's Washington Times, not a liberal newspaper, the news report, which I am sure was intended to be accurate, describes the welfare reform as reducing spending by \$55 billion over 6 years. But we all know that is not exactly what is happening. We all know that that is a reduction from a baseline.

We have got to communicate with one another and with the American people in a sensible way so that we can all understand what is going on. And we need to make sure that we can't operate outside the budget process with major aspects of our spending that come up from time to time, so I want to endorse what Joe Barton has done so much work on, and that is a rainy-day fund. We need to make a functional category of disaster relief, and we need to budget for it in advance, and we need to have incentives to make sure there are real moneys set aside in advance for that kind of thing, or else we are going to be operating altogether outside the budget process.

By bringing the whole system under control, then and only then will we succeed. We have to have a ban on blank-check spending. We just did it with welfare. We need to do it with virtually every single item of the Federal budget except Social Security, and we can do that through a process change and get to the programmatic changes one at a time because they deserve individual consideration.

The only thing that so-called entitlement programs, ranging from the independent counsel down in Little Rock right now to AFDC, have in common is that, in budget parlance, they are permanent, indefinite appropriations. That is inconsistent, that notion is inconsistent with the budget process, and it ought to be abolished. We ought to have fixed-dollar appropriations for these accounts, and



Congress ought to decide in advance what is ample funding for a particular category. I am not talking about budget cuts. We can increase it sky high, if you like, but we need to decide. If it is on autopilot, we don't have a budget process, and we are doomed to failure.

Through these kinds of changes, all of which must work together or else they will be easily avoided—you can't do piecemeal, a la carte budget process reform. Through all of these changes, we can succeed where the Budget Committee institutionally has failed and where I would say the 1974 Budget Act has failed. We can have a system that the rest of the Congress will be forced to pay attention to, one that will give the Budget Committee its appropriate role but not step on the toes of any of our other authorizing committees or appropriating committees and one, most importantly of all, that will succeed in what we are all after, and that is the imposition of fiscal responsibility on Washington.

I thank the chairman.

[The prepared statement of Christopher Cox follows:]

PREPARED STATEMENT OF HON. CHRISTOPHER COX, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman, for holding this important hearing today on the urgent need to overhaul Congress' badly-broken budget process.

1996 marks the 75th anniversary of enactment of the Budget and Accounting Act of 1921. This Act—the nation's first comprehensive budget process law—created the Bureau of the Budget and the General Accounting Office in order to improve oversight of federal spending and to bring more discipline to the annual budget process.

Like 1921, 1996 could also be a landmark year for bringing discipline to the federal budget-making system.

That's because the current political circumstances present a unique opportunity to change the deeply-flawed budget process so that it will help, rather than hinder, efforts to bring the federal budget into balance.

This has become all the more apparent in the wake of the collapse of last year's budget negotiations, as both Congress and the President have come to realize the distinct disadvantages of the current system. The current budget process:

Is complex and understandable only to a handful of experts "inside the Beltway".

Discourages early consultation and cooperation between Congress and the White House. Instead, Congress' budget—the one written by this Committee each year—is dismissed as a non-binding political statement. And the President's budget is derided as "dead on arrival."

Allows two-thirds of the budget—those programs arbitrarily deemed "uncontrollable"—to escape the discipline of annual budget review.

Fails to produce *binding* decisions on overall budget levels early in the budgeting year.

Provides no safeguard against the contingency that Congress and the White House fail to agree on a budget by October 1.

Mr. Chairman, James Madison once famously said: "If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary."

It was the genius of the framers of our Constitution that they did not rely on the self-abnegation of American politicians.

Last year's budget battle has made it clear to the American people (if ever there was any doubt) that both the President and members of Congress are no angels.

It is clearer than ever that we need a budget-making system that reflects the framers' realism about human nature and political organization. We need a budget process that will ensure that even if the President and individual legislators aren't all fiscally responsible, the federal government overall will be.

The hallmarks of the Budget Process Reform Act—the legislation I have authorized to address these weaknesses—are clarity, evenhandedness regarding the role of the President and Congress, and strict discipline.

While I've prepared a more detailed summary of the bill for the record, in the brief time I have today I'd like to focus on the most important element of my bill,

and one which should be of interest to members of this Committee: making the budget resolution a binding and enforceable law. An Enforceable Budget Law.

As a member who's had the opportunity to serve on the Budget Committee, I'm particularly aware of the degree to which this Committee is powerless to enforce the decisions you make every year as part of the budget resolution about the appropriate level of government spending.

By contrast, the Budget Process Reform Act will require that Congress enact a legally binding budget (in the form of a joint, rather than a concurrent resolution) by April 15 of each year. Until the budget is signed into law, no authorization or appropriations bill will be permitted to come to the House or the Senate floor, or before any committee.

The Budget Process Reform Act also calls for a budget that will fit on a single page—setting specified ceilings on government spending for each of 19 summary functional categories currently used. The President's detailed, phone book-sized budget submission will not come until 15 days after enactment of the one-page budget.

A simplified and binding law will do much to promote consultation and cooperation, early in the budget year, between Congress and the President. Since the budget debate will focus at a higher level of abstraction—specifically, on the total spending in each of the 19 functional categories—it is much more likely that the Congress and the President will be able to agree on how much the federal government should spend in the ensuing fiscal year.

Most significantly, because the budget under my bill will actually be enacted into law, enforcement of the budget—and its limits on spending—will then be able to be strictly enforced. For this reason, I've written into the Budget Process Reform Act a number of new enforcement mechanisms which will, in effect, lock the door on all the exits—and deny Congress and the President the tools to pick the locks. In brief, these new tools to enforce budget discipline include:

**No More Budget Act Waivers.**

Supermajority Requirements. Congress would be permitted to enact spending legislation in excess of the budget ceilings only by a two-thirds vote of both houses.

Line Item Reduction. The bill will give the President the power to enforce the spending limits in the budget by rescinding any excess spending.

No More "Blank Checks." Fixed-dollar appropriations will be required for all so-called "entitlement" programs, except Social Security and interest on the national debt.

Avoiding Government Shutdowns. If a budget law is not enacted by October 1, an automatic "continuing resolution" at the previous year's funding level will immediately take effect. All federal programs—including programs previously deemed "entitlements"—would have their funding frozen at the previous years' level under this automatic CR.

Through the Budget Process Reform Act, we will enforce the law. We will require cooperation between the President and Congress. We will bring entitlement programs under control. Above all, we will make the system clear and understandable to the people whose money we are spending.

Thank you again, Mr. Chairman, for giving me the opportunity to testify here today. I look forward to continuing to work with the members of this Committee on the urgent task of reforming the institution of the United States Congress.

Mr. NUSSLE [presiding]. I thank the gentleman.

My suggestion would be—and if you fellows would let me know what you think—that we take each individual member and allow for questions at that time and then let you go, if that works. Otherwise, you can all four stick around and participate in the discussion. Whatever you would like to do. If you have got the time, we will just keep going.

Mr. COX. I am happy to stay.

Mr. NUSSLE. All right. Then I will recognize the gentleman from Texas, Mr. Stenholm.

#### **STATEMENT OF HON. CHARLES W. STENHOLM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. STENHOLM. Thank you, Mr. Chairman. Indeed, I consider it a privilege to be here at the table with my three colleagues.

I am a great fan of country western music, and there is a song out there called "I Was Country When Country Wasn't Cool," and I think my three colleagues here, when you talk about budget process or whether you talk about budgets per se, have been there, done that. And I have been privileged to cosponsor bills with Joe and Chris, and Bill and I have worked on the Coalition budget over the last year-and-a-half, and I think the suggestion of the chairman of continuing to work in a bipartisan way is a very constructive suggestion, because the only way Congress has ever done anything of significance, as yesterday, passing a welfare bill, or any other, is bipartisan. You either sit down and work together and listen to each and every one's ideas and try to put together a package, or you fail.

In so doing, in the conversations that we have had working on individual bills, as Joe and I will be talking later today, and one of the bills that I am happy to cosponsor with him, the Budget Enforcement Simplification Trust Act, whatever it is, I certainly have never believed that process is a panacea. It is not. But it is necessary. Unless you can get the process in a more workable form, it will make it very, very difficult.

I guess I was one of the last members to give up on the prospects that we might get a balanced budget agreement last year and even this year, but it eluded us. By that, not the constitutional version, we passed that in the House, but just doing it the old-fashioned way—earning it, working at it, finding agreements. It eluded us.

But a few specifics, and Chris has said many of them. I will repeat them because I think they bear repeating. I think having enforceable deficit targets made good sense, forced the Congress to meet its obligations; or if we can't meet them, vote that we can't meet them. We have shown that we can do so in the so-called discretionary side. Where we ever got this idea that we can't do it in the automatic spending, so-called, I do not know. But entitlement caps, that is something Joe and I are interested in. I think it makes good sense to put some kind of restraint in the area of entitlements.

One of the major areas that Chris mentioned, restrictions on the ability of Congress to waive the Budget Act. It ought to be tougher to waive the Budget Act than what it is today, and we do it routinely. Over six, seven hundred times now in recent history have we waived the Budget Act. Who are we kidding if we constantly agree to waive the rules and regulations that we have said that we should follow? It ought to be tougher.

One area that I would particularly comment about, and here I have a slightly different opinion than what Chris said a moment ago on honesty in budgeting. He said everything ought to be on the table except Social Security. I think everything has to be on the table. Social Security is special. It needs to be considered in a separate way. But you can't exclude that. If you are concerned—and I see Nick Smith coming in. Nick has been one of those members that has been working, and, again, many of us in a bipartisan way recognizing that the Social Security trust fund has problems for our children and grandchildren. And we cannot continue to pay out at the same rate we are paying out of that trust fund without all of us knowing we are going to have some real problems. So the sooner

that we can start honestly facing up to that in a separate category, I think the better off we are going to be.

Conferences, here is one, perhaps the only new thing that I will say today. Conferences. This Budget Committee has become a joke regarding conferences on the budget. We Democrats started it when we excluded Republicans from meaningful participation in conferences on the budget when we were in the majority. That is wrong. It was wrong when we did it. It was wrong when you did it to us this year in excluding us. And I hope that if there is one thing that we do before the election—or before we adjourn for the elections this year, that those of us interested in the process will say and do what is necessary, whoever maintains control of the House. We will say that we are going to stop that process, that we are going to, when it comes to the budget, that we are going to honestly have conferences, and sit down and spend whatever time is necessary in this room hearing each other's ideas, listening to each other's ideas, and then voting, and majority rule, rather than excluding—and particularly on my mind because of the welfare conference that was just concluded yesterday. Made a little progress, and I have to acknowledge that, and I again give a lot of credit to Clay Shaw and Jim McCrery and a few others that insisted that this Ways and Means part of the hearing on welfare reform was going to be a little more open. And I have said in the statement there when we Democrats excluded Republicans from any participation meaningful in the decisionmaking in Ways and Means conferences, that was wrong.

We had a little bit of it this time, and it was a step in the right direction, and perhaps it is some momentum that we can build on. But conferences ought to be just that. You can still have your partisan ideas. You can still—certainly the majority are going to rule. But I know for a fact that in the welfare reform bill there were a lot of good ideas that some of we Democrats had and some Republicans—this is bipartisan—that never got considered because we didn't have an opportunity to sit down eyeball to eyeball, even as we are having today, and say this is what I think.

So if there is one new thing that I say to you today, from the budget standpoint if we are going to accomplish the reforms that we basically agree to here at this table, it will be very, very important that we work on having the conferences when you finally get down to putting together what will be the best possible bill, that we let conferences work, and that shouldn't even be a new idea. It should be something that is routine.

In conclusion, I would say enforcement, absolutely necessary. And, again, I repeat that any kind of enforcement mechanism has got to include everything or it will fail. The moment you begin excluding anything for any reason—and there are many good reasons to exclude different things. But the moment you begin excluding, if your goal is balancing the budget, you have put a 580-pound weight around your neck. And the reason I say 580, I believe the new world record was 573. It is very difficult to do. Enforcement is going to be critical.

With those comments, I would yield now to my colleague and be glad to take your questions.

[The prepared statement of Charles Stenholm follows:]

PREPARED STATEMENT OF HON. CHARLES W. STENHOLM, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF TEXAS

Chairman Kasich and fellow Budget Committee Members, I appreciate the opportunity to appear here today to discuss potential budget process reforms. I am delighted that you have taken up this subject, and I commend you for holding this series of hearings. It is a pleasure to be on this panel with Members who have joined me in working on this important issue.

There are many who might argue that we should just leave the Budget Act alone and stop mucking-up the process of the budget just because we Members have difficulty dealing with the substance of the budget. They argue that those of us who feel the deficit is a problem should just cut spending by altering federal programs rather than through changing the process. My conclusion is that, of course, the tough choices always will have to be made. But the process by which we make decisions and the way that we talk about the choices we face have a tremendous impact on the outcome of policy.

The budget process also should hold Members more accountable. The fact that we even have spending categories which we call "uncontrollable" is a statement of our failure in the area of accountability. The federal government has run deficits for 26 years in a row—obviously, for all of the years of the Budget Act of '74—and for 57 of the last 65 years. Obviously, no business could function with such a record. While the federal government has been able to avoid complete financial catastrophe, we are clearly feeling the pinch of fewer and fewer dollars to expend on programs because we must spend them on interest payments.

In that vein, I believe we should pursue several measures to make the budget process more fiscally responsible, including enforceable deficit targets such as those contained in the Coalition budget substitute and in legislation introduced by Representative Peter Viscloskey and entitlement caps along the lines which I proposed on the House Floor last Congress or the caps in the Barton-Stenholm budget process reform bill.

If Congress and the President can agree on a balanced budget plan it is important that the agreement include an enforcement mechanism to lock in the deficit reduction. The public is justifiably cynical about promises of a balanced budget at some future date, having witnessed several false promises of balanced budgets in the past. The common flaw of balanced budget plans enacted in the past is that they allowed Congress and the President to avoid responsibility when the lower deficits they promised did not materialize. Too often, we have seen Presidents and members of Congress from both parties react to increased deficits with a wink and a nod and no action. An enforcement mechanism that holds Congress and the President accountable for our promises of lower deficits is critical to gaining public credibility for a balanced budget plan. That is why the Coalition budget that Representative Orton, Martin Sabo and others worked on contained a strong enforcement mechanism that required Congress and the President to take action if the deficit fell off the glide path toward a balanced budget in any year.

Our effort to enforce a balanced budget plan and improve the budget process must be done with the goal of investing everyone equally—every Member, every program, every constituent—in seeing that the process work. In order to achieve this goal, everything must be on the table. When I say everything, I do not add any caveats to exempt sacred cows. Everything includes Social Security, and it includes taxes.

When Congress passed the Gramm-Rudman Act, members and special interests worked hard to add exemptions to a sequester mechanism to make sure that if a sequester occurred, their favored program was protected. By the time all of the compromises were made to ensure that the sequester was politically acceptable, it had lost much of its effectiveness because very few groups had a stake in ensuring that Congress and the President act responsibly in order to avoid a sequester. The only way to prevent a repeat of this mistake is to avoid starting down the slippery slope of political accommodation for sacred cows and provide no exemptions. In order for an enforcement mechanism to be successful, the possibility of a sequester should be unacceptable to all parties involved. Once certain groups conclude that a sequester is an acceptable alternative, the ability to reach the compromises necessary to make the process work will be undercut.

At this point I would like to submit for the record a number of the suggestions I am hoping your subcommittees will consider. There may be nothing particularly novel in my list—the Members on this panel with me and others have done excellent work in developing ideas such as these. I believe each have merit and can contribute to improving our budget process.

In summation, budget process reforms will not solve our budget problems by themselves. However, by increasing the understandability, the credibility and ac-

countability of the budget process, the reforms I have outlined here all would be useful tools in dealing with our budget problem.

#### BALANCED BUDGET CONSTITUTIONAL AMENDMENT

It almost goes without saying that in my opinion, the best starting place for budget reform is a constitutional amendment requiring a balanced budget. Our Body certainly has done its part in that regard and, once again, I commend the current Leadership for doing so much to bring about passage of the BBA at the beginning of this year. I don't expect this Committee to act further in that regard, unless you have some magic to work on the other Body. I simply mention the BBA here because I do believe that if we were to have the larger context of a Constitutional requirement, much of the rest of what we need from our Budget process would follow more naturally.

That being said, I quickly follow with the assertion that a constitutional amendment is not a panacea. It is a first step. It must be followed by hard choices and priority making. It also must be followed with other procedures which will aid in the achievement of a balanced budget. That is what I would like to spend the rest of my time discussing.

#### BALANCED BUDGET ENFORCEMENT

The Coalition budget included a strong enforcement mechanism which establishes deficit reduction targets, a board of estimates, a requirement of the President and Congress to follow the targets, and tough enforcement mechanisms employing a potential sequestration of all programs. The Coalition budget would write into law the deficit reduction glide path that the budget projects and would require Congress and the President to take action if the deficit is projected to exceed the target in the upcoming year, or if the actual deficit in the preceding year exceeded the target. If Congress and the President did not take action to eliminate the excess deficit or increase the targets, there would be an across-the-board sequester without exception. We recognized that there might be circumstances such as an economic downturn or international crisis that may cause Congress and the President to conclude that adhering to the deficit targets would be unwise by allowing Congress to pass legislation increasing the targets. The critical point is that we as elected officials should be willing to go on record in favor of allowing higher deficits instead of simply allowing them to happen without taking responsibility. The enforcement language in the Coalition budget incorporated proposals introduced by Reps. Bill Orton, Pete Visclosky and other members.

#### ENTITLEMENT CAPS

One clear lesson of our experiences with the Budget Enforcement Act (BEA) is that placing restraints on the growth of entitlement programs is imperative to controlling federal spending. The discretionary caps of the BEA have served well to curb discretionary spending but left untouched entitlement spending. The failure of the BEA to deal with entitlements prevented it from effectively controlling total spending or significantly reducing deficits. Experience has taught us that Congress takes action to reduce entitlement spending only under extraordinary circumstances.

It is critical that we make entitlement spending off of "automatic pilot" by imposing limits on entitlement spending that force Congress and the President to take action if entitlement spending grows faster than we can afford. Last Congress, I proposed an entitlement cap that limited the growth of all entitlements—including Social Security—to beneficiary growth plus inflation and an additional one percent cushion. Congress could set separate limits on entitlement spending by function so that programs that were under control were not penalized if other programs grew faster than allowed. This Congress, I have cosponsored legislation introduced by Rep. Joe Barton that would allow Congress to establish entitlement caps similar to the bill I offered last Congress. Both bills share a few important principles that should be included in any entitlement cap legislation: establish fixed limits on entitlement spending; allow Congress to set priorities among entitlement programs and focus enforcement on programs that are growing faster than intended; and eliminate the exemptions for favored programs. I was encouraged to hear representatives from the General Accounting Office and the Congressional Budget Office testify that they were not philosophically opposed to an entitlement cap. I hope to work with them and others with expertise in the budget process to craft an entitlement cap that addresses the concerns that have been raised about previous entitlement cap proposals.

## DISCRETIONARY CAPS

While the BEA's discretionary caps have worked reasonably well in controlling discretionary spending, the one weakness comes from OMB's ability to continually adjust the discretionary caps for inflation once they are set. I would recommend that the Budget Act be amended to remove the adjustment opportunity and have the caps remain intact as set by Congress. Both the Coalition budget and reconciliation bill passed by the Majority included this reform.

## LIMITATION ON WAIVING BUDGET RULES

We have waived the provisions of the Budget Act over 600 times since it was passed in 1974. The credibility of the budget process is undercut by the routine waivers of budget rules. Requiring that there be separate votes on each waiver under the Budget Act would ensure that the rules are waived only in extreme circumstances. Either change would do much to restore credibility to the Budget Act. At the same time, we should examine the Budget Act to identify the technical points of order that routinely require waivers to allow the legislative process to proceed but which are not essential to maintaining fiscal discipline. I agree with Mr. Sabo that we should not tie up the legislative process with technical points of order that do not involve fiscal irresponsibility. I believe that such a review of the Budget Act would increase respect for Act and improve the enforcement of the points of order that are truly important to maintaining fiscal discipline.

## TRUTH-IN-LEGISLATING

Congress has been embarrassed on many occasions by provisions in tax and spending bills that the public justifiably felt benefitted "special interest," privileged narrow interests, and other Members' special constituencies. In past years I have introduced the Truth in Legislating Resolution in response to these concerns. This resolution would require committees to include in their reports the identity, sponsor and cost of each provision of a bill which benefits 10 or fewer beneficiaries.

Any Member who includes special benefits would have to be willing to experience any resulting publicity about those benefits. Beyond being a simple, good policy of honesty in legislating, it would very likely have the secondary effect of reducing the number of this type of special interest provisions. This legislation is not intended to forbid such provisions, but simply assure that the House is not afraid to shed some sunshine on the laws it passes. By assuring the public that we in the House have nothing to hide, this resolution will enhance the public's confidence in Congress.

Mr. NUSSLE. Thank you, Congressman Stenholm.  
Congressman Barton.

## STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BARTON. Thank you, Mr. Chairman and members of the committee. I could almost just say Amen to what Chris has said and Charlie has said and just take questions, but I do have one new thing I want to talk about briefly.

Before I get into that, though, I want to echo something that Chris said. The Budget Committee and the Congress generally has done an excellent job this session of Congress in controlling or at least beginning to wrestle with discretionary spending. Because of our budget laws, though, we have done, I would say, nothing or almost nothing on entitlements or non-discretionary spending. And on the discretionary side, you have succeeded in spite of the budget process, not because of it. It has been, as Chris said, the will power of the committee and the efforts in the Senate and in leadership on both sides of the aisle to do something to bring discretionary spending somewhat more in line with where it needs to be.

There is no reason in this Congress, though, that we still can't pass comprehensive budget process reform. As Chris said, if you

can do an anti-terrorism bill in 3 days, you could certainly do a budget process prospectively in 3 weeks.

So I want to talk about two things. I want to talk about the BEST bill that I think every member of this panel has cosponsored. I am not sure that Chris has, but I know he signed off on the general points of it, and Mr. Orton and Mr. Stenholm have. It is a long-term solution. Just very quickly, it would go to a biennial budget. You would have a 2-year budget instead of a 1-year budget. That would allow the second year of the House session to focus on enforcement and not re-fighting the fights you just fought the last year, and we had that this year, as you well know.

We would require that the budget resolution be a joint resolution rather than a concurrent resolution. That means it would have the force of law. It would bring the President into the budget discussions immediately at the beginning of the process, not at the end of the process. Your budget resolution would be a 6-year budget resolution. On a biennial basis, that would be three budgets. If you didn't have agreement between the President and Congress by May the 15th, then you would revert automatically to the most current budget resolution that has passed. What that would do would end the government shutdown mentality that, again, we fought with last year.

The BEST bill has entitlement caps, and I am going to talk about the short-term version of that here in a minute. But, again, as Chris has said and Charlie has said, there is no reason to treat entitlements as totally uncontrollable. They are not natural laws of the universe. They are laws that this Congress or previous Congresses have passed, and we can do something about them in the current Congress.

The BEST bill has sequestration by program, unlike Gramm-Rudman sequestration, which was a meat axe across the board. The sequestration process in the BEST bill is program-specific. So if you have a program that is doing a good job, that program is not going to be sequestered if it is within its budget. But if you have a program area that is over-budget, then the sequestration would occur in the areas where the problem is. We think that is an improvement over Gramm-Rudman.

As Chris said, we do have a rainy-day fund. You would eliminate this dire supplemental appropriation bill. You would set aside each budget year a specific amount of money, and then you would have specific definitions on what was an emergency so that it couldn't be whatever people thought they needed money for in that particular year.

Again, we have got—and Chris has pointed out this about baseline confusion. When the welfare reform bill says it is going to cut spending \$55 billion over 5 years, we know that is not true. It is going to reduce the expected amount of money that was proposed to be spent by \$55 billion. So our baseline is current spending. So next year, if spending goes up, it is an increase. If spending goes down, it is a decrease. Except for the entitlement programs where we do allow for population growth and expected inflation.

So that is the quick summary of the BEST bill. Now I want to talk about something that is not quite as comprehensive, but it is



something that really, really needs to be done this year, and it could be done on a bipartisan basis, and that is entitlement caps.

If we don't have time to reform the process for the next Congress in this Congress, one thing that we could do is go ahead and put in place entitlement spending caps for the next 6 years. And it is almost indifferent which baseline you use. You could use the President's baseline, and the programs that I am talking about specifically are Social Security, Medicare, Medicaid, AFDC, Food Stamps, SSI, EITC, Federal retirement, Federal civilian retirement, military retirement, unemployment compensation, veterans' entitlements, other entitlements, and other receipts and asset sales.

In the President's budget, he has proposed to spend in those program areas over the next 6 years \$5.905 trillion. If we wanted to take the President's budget numbers—the President's budget numbers—for those 6 years and set them into law that we would not spend in each year more than the President has proposed, you could override that with a vote of the House and the Senate. So it wouldn't be totally locked in, but in order to spend more, you would have to vote to spend more.

If we were to do that, take the President's numbers, lock them in in entitlements for 6 years, we would save, compared to the CBO baseline, about \$346 billion—no, \$269 billion over 6 years. Now, you could take the budget resolution that came out of this committee; you would save \$340 billion over the CBO baseline. If you want to take the Blue Dog Coalition budget, you would save \$346 billion.

So what I am proposing is that you put into law—not permanent law but just a sunset law for the next 6 years—the entitlement proposals and you can pick the President's budget, you can pick the budget resolution, you can pick the Blue Dog budget, or you could pick some compromise version of those three budgets, put them in the law, and comparing it to the CBO baseline that we have got today, you would save somewhere between \$269 billion and \$346 billion.

Now, keep in mind that when I say save, we are going to go up each year. The President's budget and all the other budgets, in each of the entitlement areas spending goes up each year. So we are not spending less money. We are actually spending more money each year. But we would not—spending would not go up as rapidly as if we do nothing. And I think between \$269 billion and \$346 billion in entitlement savings is something worth working for in this Congress with this committee.

Now, my BEST bill has been introduced. This idea about entitlement caps using the President's budget or one of the other budgets that I have talked about is not in legislative form. So if this committee, the Budget Committee, is serious, then we need to begin to work on that, as Charlie said, in a bipartisan fashion, and we need to do it next week.

With that, I would yield back.

[The prepared statement of Joe Barton follows:]

PREPARED STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

I want to thank Chairman Kasich and other members of the Budget Committee for holding this hearing on budget process reform and allowing me to testify. First I would like to commend this committee for all the work it has done to ensure that

our country is on the path to a balanced budget. Once again, this Congress has passed a budget resolution which locks in a balanced budget by FY 2002, and the Budget Committee deserves great credit for this. I believe our top priority should be guaranteeing that all the progress this Committee has made is not lost. Why not apply enforceable spending limits for entitlements as well as discretionary programs? Why not lock-in the spending levels already agreed upon? Granted, the levels locked in may not be the first choice of either Republicans or Democrats, but if legislation is passed that cements these numbers into law, we are assured these cuts are in place when the 105th Congress convenes, regardless of who is in the majority. In 1997, the Congress will then be forced to debate policy while constrained by spending levels already in the place. Depending on whether you are looking at the President's proposal, the budget resolution, or the "Blue Dog" Proposal, we have achieved \$269-\$346 billion in entitlement savings. (Refer to the chart on page 7 of my testimony.) It would be a discredit to this Congress to let these cuts go.

On a similar note, since the Republicans have taken the majority, I have been a strong supporter of budget process reform. As I have said to this committee in the past, budget process reform is an essential key to reaching a balanced budget. Passage of meaningful process reform would leave its mark on this Nation for generations to come. Last November, I introduced HR 2599, the "Budget Enforcement Simplification Trust" Act, or the "BEST" bill. This legislation recognizes the need for discipline and order in making spending and revenue decisions at the Federal level.

#### "BUDGET ENFORCEMENT SIMPLIFICATION TRUST" ACT

The following is a summary of major components of the "BEST" bill:

1. *Biennial budgeting.*—A biennial resolution would permit more focus on oversight and evaluation of program performance. In odd numbered years, the President should propose and Congress should act on the budget, spending, and tax legislation. In even numbered years, Congress should conduct meaningful oversight, monitor and evaluate programs, and authorize/reauthorize programs. This may require that Congress take more of a long term view, focusing more on policy and less on detail. It would require serious impediments to enactment of new/additional spending legislation in even numbered years.

The biennial budget also may require Congress to give the President more flexibility to execute and implement policy—fewer set-asides and earmarks, and/or broader reprogramming authority.

2. *Budget with force of law.*—A joint, rather than the current concurrent, resolution would bring the President into Congressional budget deliberations and make him accountable for its success or failure. And, because the President would have the authority to veto an unacceptable resolution, a joint resolution would require Congress to pay attention to Presidential concerns. Unlike the current budget process, this new framework would make both the Executive and the Legislative branches stakeholders in the resolution's outcome and require them to agree on overall spending and revenue levels, annual deficits, total debt levels, and on the allocation of resources among budget functions and committees.

If Congress and the President do not enact a joint resolution by May 15th in a given year, the amounts and allocations in the previous resolution become binding. This would provide a strong incentive for timely action on the resolution.

The debt ceiling could be revised through the joint resolution rather than requiring separate legislation.

Spending limits could be revised through the joint resolution instead of through separate budget process legislation. Such cap adjustments would require a separate vote and would not be hidden or obscured through an up or down vote on the entire budget resolution.

3. *Entitlement caps.*—The bill would create caps on entitlement caps and other mandatory spending. Under current law, entitlement spending is, in effect, a blank check. Under this legislation, the Congress and the President would get budgets for large programs (over \$20 billion) and then must find ways to keep the entitlement within its budget. Entitlement programs and mandatory spending account for over two-thirds of total government spending.

4. *Sequestration.*—Once a budget is set, each spending increase must be offset by an equal spending cut. If this requirement is not met, sequestration will take place. Cuts would be made on a pro-rata basis for every program, project and activity in the area that has had an overage. Sequestration is triggered when prior year spending is higher than that year's cap or if Congress and the President enact legislation which exceeds a spending cap.

5. *Reserve "rainy day" fund.*—The BEST bill creates a Reserve Fund which would replace the "emergency" supplemental appropriations bills which have become a catch-all for non-emergency spending schemes. Disbursement will be only for certified natural disasters with tough procedures to ensure spending on only its designed purposes. An "emergency" should not be defined as a requirement lacking budgeted funds. The BEST bill would establish an emergency/contingency reserve fund that would set aside a prudent amount for emergencies. These funds would be included in overall spending limits. Increases in emergency requirements beyond the amounts available in the reserve fund would be offset by decreases in non-emergency amounts. If offsets are not feasible, then Congress could vote for, and the President could sign into law, higher spending limits. This increase in spending would be explicit, and not hidden through an "emergency" designation.

The use of emergency funds would be restricted to specified purposes. This may require us to differentiate between "emergencies" (i.e., unanticipated and immediate threats to public safety or health, life, or property) and recovery/rebuilding requirements that could be addressed more appropriately through insurance or through better budgeting.

6. *End baseline confusion.*—The baseline will reflect current laws and policies. For discretionary programs, it would reflect the discretionary caps. For entitlements it would reflect current laws. For example, the baseline would go up for programs like Social Security, which are indexed for inflation.

#### CONCLUSIONS

The federal budget process is decentralized with a vengeance. Too many Executive branch agencies, too many Congressional Committees and subcommittees, go through too many steps each year, until it seems that no decision on spending and tax policy ever is final. The process is replete with duplication, overlap and redundancy. Complexity compounded by confusion undermines accountability. We speak of so-called "uncontrollable spending" as if those federal outlays resulted from natural laws rather than statutes enacted right here on Capitol Hill.

The thrust of the BEST bill is two-fold: make government and the budget process more accountable; and use public accountability to encourage Congress and the President to live up to the promise made in the budget process every year.

We need to be concerned about government accountability. The polling both is the market clearing house of democracy. When government becomes so complex that concerned voters, willing to spend a reasonable amount of time, cannot understand the Federal budget, the system breaks down.

Public accountability is the most effective instrument we know to assure government accountability. Congress and the Administration often failed to live within the budgets we currently adopt. Passage of the BEST bill would make it very difficult not to live up to what we promise.

I am convinced that real, binding spending limits hold the key to serious budgetary restraint. We can balance the budget any number of ways, but we never will balance the budget unless we agree that there is an amount of money more than which we will not spend, and stay within that limit we have set on spending. To keep spending within binding limits, we should adopt automatic reductions similar to sequestration under the Budget Enforcement Act. This means extending the concept of caps to the entitlements and other mandatory spending in the budget. I believe we should hold individual committees and subcommittees responsible for excess spending in their jurisdictions. And we should force a separate vote any time we want to raise spending limits in the budget.

This system will work because our constituents will understand it. And that is where public accountability comes into play. Nothing here would keep Congress and the President from "busting the budget". But if we do bust the budget, under this system, the media will know and our constituents will understand, whom to hold accountable. That is the best, most healthy kind of enforcement mechanism in our system of government.

#### FISCAL YEARS 1997–2002

	Total Entitlement Spending Exclusive of Interest	Plus/Minus			
		CBO	Pres	Bud Res	Blue Dog
CBO Base .....	6,174	na	269	340	346
President .....	5,905	-269	na	71	77
Budget Resolution .....	5,834	-340	-71	na	6

## FISCAL YEARS 1997-2002—Continued

	Total Entitlement Spending Exclusive of Interest	Plus/Minus			
		CBO	Pres	Bud Res	Blue Dog
Blue Dogs .....	5,828	-346	-77	-6	na

Mr. NUSSLE. Thank you, Congressman Barton.  
Congressman Orton.

**STATEMENT OF HON. BILL ORTON, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF UTAH**

Mr. ORTON. Thank you, Mr. Chairman and members of the committee. I commend you for holding these hearings on this very important issue, and I appreciate the opportunity to testify before the committee today.

I am also pleased at the opportunity to appear with the other members of this panel who have spent so much time studying the budget process and recommending ways to improve it. I am a co-sponsor of Joe Barton's Budget Enforcement Simplification Trust Act. I also commend Chris Cox for his proposals to simplify the budget process, which is virtually unintelligible for the general public and probably for most of the Congress.

Finally, I am honored to be here with my friend and colleague, Charlie Stenholm. For years we all know Charlie has played a critical leadership role in budget issues in the House ranging from the balanced budget amendment to entitlement controls, to enhanced rescission, and many other budget process reforms.

Before I begin my testimony, I would like to commend the many members on both sides of the aisle who have worked on other budget process reform efforts. In my first term in Congress, and in every Congress thereafter, I have introduced comprehensive budget process reform legislation, which includes enhanced rescission or line-item veto, biennial budgeting, capital budgeting, performance-based budgeting, and sunseting of unauthorized programs. Since then, I have also endorsed legislation to control the use of emergency spending and to end baseline budgeting, also to impose a lock box on discretionary spending cuts.

These tools, as my colleagues have mentioned, are not a panacea for Federal deficits. But they do provide important tools to cut unnecessary spending and make better spending choices. And I congratulate this Congress for finally enacting line-item veto into law. I also urge the enactment, before we adjourn, of emergency spending reform and lock box reform. I also urge consideration of the other proposals in my budget reform legislation.

But the main issue I would like to discuss for a moment in my presentation today is the issue of budget enforcement. Mr. Chairman, one of the central issues in last year's budget negotiations was the issue of budget and economic projections. In spite of our talking of passing a balanced budget, the fact is that no plan—not the Republican plans, nor the Coalition budget, nor the Chafee-Breaux budget—was an actual balanced budget. They were merely projected balanced budgets, and such projections were based on very technical, very problematic assumptions about economic growth, inflation, and Federal spending and revenues.

One of the central points of disagreement in last year's budget negotiations was over which projections we would use: CBO or OMB. Eventually, both the White House and Congress had agreed to use CBO numbers which were considered to be the most conservative. I believe this was a wise decision. You see, the track record even of the CBO is that it tends to be far more optimistic than reality actually turns out to be. By way of proof, I would like to submit tables from this year's CBO "Economic and Budget Outlook."

These numbers show that over the last 16 years CBO has consistently underestimated the actual Federal deficit. In fact, the average underestimate is \$26 billion per year. As a result, the cumulative CBO underestimate of deficits over the last 16 years is \$416 billion.

The other interesting point about these numbers is that the main reason we have underestimated the actual deficit is that the Joint Committee on Taxation has consistently overestimated revenues. That is, \$20 billion of the \$26 billion average annual underestimation of deficits occurred as a result of overestimating revenues.

Finally, what is particularly unnerving about these statistics is that the most extreme cases of overestimation of revenue takes place immediately after tax changes. For example, let's look at 1982 and 1983, the two years immediately following the Reagan tax cuts enacted in 1981. In 1982, Joint Tax Committee overestimated revenues by \$40 billion in one year alone. In 1983, Joint Tax overestimated revenues by \$65 billion. In fact, Joint Tax and CBO overestimated revenues in each of the 5 years following passage of the 1981 tax cuts by an average of \$32.4 billion per year.

This record absolutely and completely undermines the so-called supply-side miracle. Supply siders argued that lowering taxes would increase revenues. In support of their position, they argue that revenues actually increased in the early 1980s. While that is true, it is totally beside the point. In a growing economy, with increases in population, nominal revenues are inevitably going to rise, even with selective revenue cuts.

Using this exact same theory, it could be argued that abortion actually increases population. After all, in every year since the legalization of abortion under *Roe v. Wade*, the population of the U.S. has increased. This theory would claim that the increase is a result of over 2 million abortions per year being performed.

The point is that supply siders argue that revenues will, in fact, be higher than static revenue analysis would project them to be. And as these objective CBO numbers show, precisely the opposite has occurred. The so-called supply side miracle is that revenues are even lower than we expect them to be when we cut taxes, not higher, as the supply siders claim.

Now, I don't want to inject partisanship into this panel, but on this point I must say that I am extremely distressed to see the House recently vote to potentially return to voodoo economics and the supply side hocus pocus. Last month the House approved an amendment to use so-called dynamic scoring. This amendment is nothing more than a wink and a nod to go back to the practice of the early 1980s of passing huge tax cuts and saying that somehow,

some way, they will actually increase revenues. I strongly urge the Senate and conferees to reject this approach.

Of equal concern are reports in the press that the Republicans and potentially their nominee for President, Senator Dole, will advocate a massive \$600 billion tax cut to be paid for with increased economic growth. To say that such a tax cut will be paid for with increased economic growth is nothing more than a repudiation of CBO and Joint Tax Committee numbers and a return to voodoo economics.

This is especially troubling since we have made such tremendous progress on the deficit. After a decade of ruinous \$200 to \$300 billion a year deficits, Congress and this administration have lowered the deficit by more than half, from \$290 billion in 1992 to \$130 billion or lower this year. Enactment of a \$600 billion tax cut, without dollar-for-dollar offsetting spending cuts, will inevitably mean a return to the times of \$200 billion a year deficits and higher.

Finally, all of this discussion leads to the potential problems with any budget that is based on projections. The issue is simple. We need to back up specific spending cuts with a mechanism that guarantees our deficit targets are met. The Barton and Stenholm entitlement control mechanisms are one way to solve the problem. Another way is to provide a mechanism to specifically ensure that global deficit targets are met.

There is such a mechanism, and we have included it in the Coalition budget. It is also similar to legislation I have submitted in prior Congresses. The Coalition enforcement provision establishes deficit reduction targets in the years leading up to 2002 and a balanced budget target in the following years. Under the enforcement proposal, Congress is not just required to pass balanced budget projected to meet these targets, but also responsible for monitoring actual deficits, and taking action if the targets are not met.

Specifically, in any year in which the actual deficit is larger than the deficit target, Congress and the President would be required to pass legislation to make up that shortfall or pass legislation, going on the record, to suspend this requirement. If Congress and the President fail to do so prior to the end of any session of Congress, spending is automatically cut to make up this shortfall.

Mr. Chairman, this would be a huge change from current law. It does not guarantee meeting budget targets or achieving a balanced budget. It does not specify where cuts are to be made. But it does provide a mechanism to force members to go on the record if they insist on running actual deficits. More importantly, it provides a critical check on unwise plans that insist on using funny numbers.

Finally, although I doubt whether this advice will be followed, I urge the committee to take one final shot at passing a balanced budget before we adjourn. I am encouraged by the bipartisan welfare reform we passed yesterday. That legislation passed with bipartisan support and will be signed into law because most of the provisions of the bipartisan Castle-Tanner bill were incorporated into the final agreement.

I just happen to have with me a bipartisan budget that cuts \$150 billion more from the budget plan the Congress passed which the President opposes. The Coalition has shown that we can deliver at

least 110 Democrats in the House and at least 20 in the Senate. With the Republican Party support, that is more than enough for a supermajority in both Houses, enough for enactment into law over the veto of the President, which I doubt would be likely or necessary, since I believe the President would actually support this budget.

So that is my suggestion, Mr. Chairman. Why not go to the floor of the House one last time with the Coalition budget? With your support, we could achieve a historic balanced budget agreement.

Again, I thank you for the opportunity to testify. I know we have a vote on. I would be happy to either respond to questions or go vote and come back.

[The prepared statement of Bill Orton follows:]

PREPARED STATEMENT OF HON. BILL ORTON, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF UTAH

Mr. Chairman and members of the Committee, I commend you for holding these hearings and appreciate the opportunity to testify today before the committee.

I am also pleased at the opportunity to appear with other members who have spent so much time studying the budget process and recommending ways to improve it. I am a co-sponsor of Rep. Barton's "Budget Enforcement Simplification Trust Act." I also commend Rep. Cox for his proposals to simplify a budget process which is virtually unintelligible for the general public, and probably for much of the Congress.

Finally, I am honored to appear with my friend and colleague, Charlie Stenholm. For years, Rep. Stenholm has played a critical leadership role in budget issues in the House, ranging from the balanced budget amendment, to entitlement controls, to enhanced rescission, to many other budget process reforms.

Before I begin my testimony, I would also like to commend the many members who have worked on other budget process reform efforts. In my first term of office and in every Congress thereafter, I introduced comprehensive budget process reform legislation, which included enhanced rescission, biennial budgeting, capital budgeting, performance-based budgeting, and sunseting of unauthorized programs. Since then, I have also endorsed legislation to control the use of emergency spending, to end baseline budgeting, and to impose a lockbox on discretionary spending cuts.

These tools are not a panacea for federal deficits. But, they do provide important tools to cut unnecessary spending, and make better spending choices.

I congratulate this Congress for finally enacting line item veto into law. And, I urge the enactment. Before we adjourn, of emergency spending reform and of lockbox reform. I also urge consideration of the other proposals in my budget reform legislation.

The main issue I would like to discuss in my presentation today is the issue of budget enforcement. Mr. Chairman, one of the central issues in last year's balanced budget negotiations was the issue of budget and economic projections. In spite of all our talk of passing a balanced budget, the fact is that no plan—neither the Republican plan, nor the Coalition Budget, nor Chafee-Breaux—was an ACTUAL balanced budget, they were merely projected balanced budgets. And, such projections were based on very technical, very problematic assumptions about economic growth, inflation, and federal spending and revenues.

One of the central points of disagreement in last year's budget negotiations, was over whose projections we would use—the Congressional Budget Office (CBO) or the Office of Management & Budget (OMB). Eventually, both the White House and Congress agreed to use CBO numbers, considered to be the more conservative.

I believe this was a wise decision. You see, the track record even of the CBO is that it tends to be more optimistic than reality actually turns out to be. By way of proof, I would like to submit tables from this year's CBO "Economic and Budget Outlook."

TABLE B-3.—SOURCES OF DIFFERENCES BETWEEN ACTUAL BUDGET TOTALS AND BUDGET RESOLUTION ESTIMATES, FISCAL YEARS 1980–1995

(In billions of dollars)

	Policy Differences	Economic Differences	Technical Differences	Total
<b>REVENUES</b>				
1980 .....	6	8	-4	11
1981 .....	-4	5	-13	-11
1982 .....	13	-52	-1	-40
1983 .....	-5	-58	-3	-65
1984 .....	-14	4	-4	-13
1985 .....	(1)	-20	3	-17
1986 .....	-1	-23	-2	-27
1987 .....	22	-27	7	2
1988 .....	-11	4	-17	-24
1989 .....	1	34	-8	26
1990 .....	-7	-36	9	-34
1991 <sup>2</sup> .....	-1	-31	-24	-56
1992 .....	3	-46	-34	-78
1993 .....	4	-28	3	-20
1994 .....	-1	12	4	15
1995 .....	(1)	16	1	17
Average .....	(1)	-15	-5	-20
Absolute Average <sup>3</sup> .....	6	25	8	29
<b>OUTLAYS</b>				
1980 .....	20	12	16	48
1981 .....	25	6	16	47
1982 .....	1	24	8	33
1983 .....	18	(1)	8	26
1984 .....	1	7	-18	-9
1985 .....	23	-5	-13	5
1986 .....	14	-12	20	22
1987 .....	7	-12	13	8
1988 .....	-2	12	12	22
1989 .....	17	14	12	43
1990 .....	13	13	59	85
1991 <sup>2</sup> .....	-19	1	-22	-40
1992 .....	15	-21	-60	-66
1993 .....	16	-19	-90	-92
1994 .....	10	-9	-36	-35
1995 .....	2	17	-14	6
Average .....	10	2	-6	6
Absolute Average <sup>3</sup> .....	13	12	26	37
<b>DEFICIT</b>				
1980 .....	13	4	19	37
1981 .....	28	1	29	58
1982 .....	-12	76	9	73
1983 .....	22	59	11	91
1984 .....	15	3	-14	4
1985 .....	23	15	-16	22
1986 .....	16	11	22	49
1987 .....	-15	15	6	6
1988 .....	9	8	29	46
1989 .....	17	-20	20	17
1990 .....	20	49	50	119
1991 <sup>2</sup> .....	-19	32	2	15
1992 .....	12	25	-26	11
1993 .....	12	9	-93	-72
1994 .....	11	-21	-40	-50
1995 .....	2	2	-15	-11
Average .....	10	17	-1	26
Absolute Average <sup>3</sup> .....	15	22	25	43

<sup>1</sup> Less than \$500 million<sup>2</sup> Based on the fiscal year 1991 budget summit agreement, as assessed by CBO in December 1990.



<sup>3</sup> The absolute average disregards whether the differences are positive or negative.

Notes: Differences are actual outcomes minus budget resolution assumptions.

The allocation of revenue differences between economic and technical factors is done soon after the fiscal year in question and is not subsequently changed to incorporate revisions in economic data.

Source: Congressional Budget Office

These numbers show that over the last 16 years, CBO has consistently underestimated the actual federal deficit. In fact, the average underestimate is \$26 billion a year. As a result, the cumulative CBO underestimate of deficits over the last 16 years is \$416 billion dollars.

The other interesting point about these numbers is that the main reason we have underestimated the actual deficit is that the Joint Committee on Taxation has consistently overestimated revenues. That is, \$20 billion of the \$26 billion average annual underestimation of deficits occurred as a result of an overestimation of revenues.

Finally, what is particularly unnerving about these statistics is that the most extreme cases of overestimation of revenues takes place immediately after major tax changes. For example, let's look at 1982 and 1983, the two years immediately following the Reagan tax cuts enacted in 1981. In 1982, we overestimated revenues by \$40 billion in 1982. In 1983, we overestimated revenues by \$65 billion. In fact, CBO overestimated revenues in each of the five years following passage of the 1981 tax cuts, by an annual average of \$32.4 billion.

This record absolutely and completely undermines the so-called "supply side miracle." Supply siders argued that lowering taxes would increase revenues. In support of their position, they argue that revenues actually increased in the early 1980's. While that is true, it is totally beside the point. In a growing economy, with increases in population, nominal revenues are inevitably going to rise, even with selective revenue cuts.

Using this exact same theory, it could be argued that abortion actually increases population. After all, in every year since the legalization of abortion under *Roe v. Wade*, the population of the U.S. has increased. This theory would claim the increase to be the result of over 2 million abortions per year being performed.

The point is that supply siders argue that revenues will in fact be higher than static revenue analysis would project them to be. And, as these objective CBO numbers show, precisely the opposite has occurred. The so-called "SUPPLY SIDE MIRACLE" is that revenues are even lower than we expect them to be when we cut taxes, not higher, as supply siders claim.

On this point, I must say that I am extremely distressed to see the House recently vote to potentially return to voodoo economics and supply side hocus pocus. Last month, the House approved an amendment to use so-called "dynamic" scoring. This amendment is nothing more than a wink and a nod to go back to the practice of the early 1980's, of passing huge tax cuts, and saying that somehow, someday, they will actually increase revenues. I strongly urge the Senate and conferees to reject this approach.

Of equal concern are reports that the Republicans, and potentially, their nominee for President, Senator Dole, will advocate a massive \$600 billion tax cut, to be paid for largely from increased economic growth. To say that such a tax cut will be paid for with increased economic growth is nothing more than a repudiation of CBO and Joint Tax Committee numbers and a return to voodoo economics.

This is especially troubling, since we have made such tremendous progress on the deficit. After a decade of ruinous, \$200 billion to \$300 billion a year deficits, Congress and this administration have lowered the deficit by more than one half, from \$290 billion in 1992 to \$130 billion or lower this year. Enactment of a \$600 billion tax cut, without dollar for dollar offsetting spending cuts, will inevitably mean a return to the times of \$200 billion and higher deficits each year.

Finally, all of this discussion leads to the potential problems with any budgeting that is based on projections. The issue is simple. We need to back up specific spending cuts with a mechanism that guarantees that our deficit targets are met. The Barton and Stenholm entitlement control mechanisms are one way to solve this problem. Another way is to provide a mechanism to specifically insure that global deficit targets are met.

There is such a mechanism, and we have included it in the Coalition Budget. It is also similar to legislation I have submitted in prior Congresses.

The Coalition budget enforcement provision establishes deficit reduction targets in the years leading up to 2002, and establishes a balanced budget as a target in following years. Under the enforcement proposal, Congress is not just required to pass budgets projected to meet these targets, but is also responsible for monitoring ACTUAL deficits, and taking action if such targets are not met.

Specifically, in any year in which the actual deficit is larger than a target deficit, Congress and the President are required to pass legislation to make up that shortfall, or to pass legislation—going on the record—to suspend this requirement. If Congress and the President fail to do so prior to the end of any session of Congress, spending is cut automatically to make up for this shortfall. This sequestration covers all spending across the board, except interest on the debt and Social Security benefits, since Social Security is self-funding and currently running a significant surplus.

Mr. Chairman, this would be a huge change from current law. It does not guarantee meeting budget targets or a balanced budget. It does not specify where cuts are to be made. But, it does provide a mechanism to force members to go on record if they insist on running actual deficits. More importantly, it provides a critical check on unwise plans that insist on using funny budget numbers or voodoo economics.

Again, thank you, Mr. Chairman, for the opportunity to testify today.

Mr. NUSSLE. Mr. Sabo.

Mr. SABO. There really is not time to pursue questions, but you raise lots of issues. Traditionally, I have opposed a 2-year budget. I am not sure I am right. I think that really deserves some discussion. I would also suggest that there is a difference between 2-year budgets and 2-year appropriations. It might well make sense to have 2-year budgets and still continue annual appropriations.

Now, I am not sure. My instincts are against 2-year budgets, but I am not sure I am right.

Mr. BARTON. Mr. Sabo, that is actually what the BEST bill would do. You would have a 2-year authorization, but appropriations would still be annual.

Mr. SABO. Okay. Another question, again, instinctively I would not like to change the budget resolution to a joint resolution, but I am not certain. And I have never really heard any discussion or rationale beyond simply assertions.

I am not sure what it does to the dynamics between the Congress and the President, and, frankly, I have to say I was not a supporter of line-item veto, and I have real problems as we systematically diminish the power of the legislative branch versus the executive. And I think of the House versus the Senate as we go through lots of these procedures. There are lots of inherent powers Senators have that House Members do not have and that we have to exercise jointly through the legislative process, namely, such things as a hold and a whole variety of things which an individual Senator uses for his or her own perspectives which simply don't exist in the House. And I see us systematically reducing the power of the House relative to the Senate and to the President. I firmly believe that if we really want the legislative branch to become much more irrelevant, we should examine whether we want to go to a parliamentary system where the power of the Congress is to select the Executive and then Congress becomes of very little relevance there except to confirm what the Executive wants.

I just think we have to be very cautious, and I think we are rapidly heading in that direction, whether it is line-item veto, term limits which are not here yet, but the idea has growing momentum. All of these proposals significantly reduce the strength of the legislative versus the executive branch.

I think there are other issues in your proposal. I am not sure how you deal with the variable interest costs where one guesses what we do has little impact and what the Federal Reserve does has substantially more impact. With interest it being close to 15

percent of the budget and hard to predict with certainty in the future has become important. How one deals—as Mr. Orton so vividly described, with lots of our problems of meeting projected deficits or revenues that are below projections. How do we deal with below projected revenues in contrast to expenditures which are over-projections? I think that needs some thinking. We tend to avoid that and pretend it is only on the spending side that way we miss projections. That is not the case.

Mr. COX. Mr. Chairman?

Mr. SABO. Let me add, just because we have to run, there is another vital role that in a small, limited way the Federal Government does that State and local government doesn't do. That is we deal with automatic countercyclical programs as the economy hits its downturns. I think they provide very important stabilizing effects to our economy. I think we have to think of how we deal with those programs. It is a little different when you have programs where you can fairly project a projected caseload, and variations in inflation are in most cases close to neutral, because although they may increase costs, inflation changes also increase revenues. But there are programs where the Federal Government has a very important countercyclical effect on our economy, and I think we have to be very cautious when we don't know exactly what is going to happen to the economy. Some of them are income support programs, like Food Stamps, which go up and down with the economy. AFDC is gone now, but, frankly, that was one of the problems with the program, it historically went up and down with the economy. Unemployment compensation, we probably really shouldn't have in our budget because it is essentially State funds flowing through the Federal government. But because it also has a Federal umbrella, it flows through our budget.

I think we have to think through how we deal with those kinds of variations. So I commend all of you for your thought and the work you have put into it. But I think there are still some issues we have to think through.

I thank you.

Mr. NUSSLE. I would love to entertain responses and go for a while. Obviously you guys—and part of the reason why we are all on this committee and your interest in being here is because we are all interested in this subject. I have a ton of questions or challenges or some—

Mr. BARTON. Yes, are we the only panel, Mr. Chairman?

Mr. NUSSLE. I don't believe so. I think we have one at 11:00 that is coming. We have about five-and-a-half minutes. We have two votes. So I think what we will do is—

Mr. BARTON. Well, we would be willing to come back if you want us to. If you don't want us to and want to go on, obviously that is—

Mr. NUSSLE. Why don't we do this? You are invited back. If you come back, I know the committee members will have some more questions and discussions, plus this is going to continue on into the future, too, as we all have discussed.

Mr. COX. Mr. Chairman, I cannot return because I have another task force meeting at 11 o'clock. But I want to undertake to you

and all the committee members to work diligently to put together legislation that can pass this year.

Mr. NUSSLE. Okay. Great.

The committee will stand in recess until after the second vote. [Recess.]

Mr. HERGER [presiding]. We will reconvene.

Mr. Smith, for your testimony, please.

# **STATEMENT OF HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. SMITH of Michigan. Mr. Chairman, thank you very much for allowing me to testify before this fantastic committee.

Mr. HERGER. You are welcome.

Mr. SMITH of Michigan. Did you want to modify that? [Laughter.]

As chairman of the Debt Limit Task Force, I looked very closely at borrowing. I brought this chart, Mr. Chairman to try to convey the message that Congress has lost its authority over spending and over borrowing. As you see by this chart, this was the 1995 expenditures [\$1,518 billion]. Today we have a situation where entitlement spending represents 50 percent of the expenditures of the Federal Government. If you add to that the approximate 16 percent that goes into interest and add to that the defense spending, then we end up with 12 appropriation bills representing 18% of budget. These 12 bills consume the bulk of Congress' time. It is sort of like treading water, staying afloat but not making much progress. We use a lot of our time trying to make very modest changes in what is approximately 18 percent of the budget.

Article I, Section 8 of the Constitution says Congress is responsible for borrowing. Section 9 talks about our authority over spending. We have relinquished our authority over spending to the administration because no longer can a majority in Congress change the entitlement spending without the consent of the President.

I think we have now broken a little bit of that barricade in terms of dealing with entitlement spending. I would like to think of this as a time when we are not sure whether the next President is going to be Republican or Democrat. And that this fall we could decide in a non-partisan way what is good and what is right for Congress is regaining some of its control over spending and borrowing.

I would like to see some provisions in the budget process reform to give Congress more authority over those expenditures and those programs that we have now, in effect, relinquished to the administration.

In the area of borrowing, we experienced this past year the administration again, if you will, usurping congressional Article 1, Section 8 responsibility over how deep this country goes into debt. So in the process of a decision to withhold an increase in the debt ceiling, we saw the administration take extraordinary measures to expand the debt.

I introduced legislation, H.R. 2897, that provided that we limit the authority of the administration to disinvest, to underinvest, and additionally limit the authority to sell assets of this country, without the authority of Congress.

Underinvestment is defined as simply making a decision when those surplus tax funds come in from Social Security, not to imme-

diately invest them in non-negotiable Treasury securities. They actually made a notation on about a 4-x-5 card that says this is not going to be lent to Treasury as a non-negotiable security. This card in effect, is an IOU, but not technically subject to the debt limit. And by doing that, the Treasury reduced the amount that is being borrowed in the debt subject to the limit, so that the administration could then reach out and borrow additional hard dollars in negotiable securities to, in effect, expand the debt.

The disinvestment is a similar action, taking existing trust fund IOUs, if you will, out of this empty Social Security Trust Fund vault and saying that this money is no longer technically being borrowed by Treasury. So, again, that leaves additional room for borrowing through the sale of negotiable securities.

It seems to me that it is reasonable for Congress to start regaining some of its control over spending and borrowing.

Mr. Sabo mentioned that he was against passing on the authority to the administration for a line-item veto. I think I was probably the only Republican that spoke against a line-item veto, and that simply was reflected from my experience in the State legislature that it was always used more as a bargaining tool to influence or increase spending than as a way to reduce spending.

The reason this is so important and the reason that I think that we should make every effort to try to achieve some legislative changes this fall is because of the importance of a balanced budget. The Federal Government now borrows 41 percent of all of the money lent out in the United States. Mr. Greenspan when he came to this committee said that if we are able to balance the budget, that reduced demand for borrowing by the Federal Government could have a substantial effect on interest rates. Mr. Greenspan estimated a reduction of 1.5 to 2 percent in interest rates.

I commend this committee for moving ahead. I think I have stated in the past that I would favor a 2-year budget, but I would favor also a 2-year appropriation bill so that we don't grind away and use legislative time with 18 percent of the budget Federal spending that is represented by the 12 appropriation bills.

Mr. Chairman, thank you very much. I would be glad to answer any questions. I would ask that our report of the House Task Force on the Debt Limit and the Misuse of Trust Funds be submitted for inclusion in the record, if there is no objection.

Mr. HERGER. Without objection.

[The Task Force Report follows:]

## TASK FORCE ON THE DEBT LIMIT AND THE MISUSE OF TRUST FUNDS

### REPORT TO THE SPEAKER

#### Section 1: The effects of Federal debt

"What is prudence in the conduct of every private family can scarce be folly in that of a great kingdom." Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*

#### INTRODUCTION

The issue of government debt has long been discussed by economists. Adam Smith devotes the final chapter of his *An Inquiry into the Nature and Causes of the Wealth*

of Nations<sup>1</sup> to the subject. James Buchanan and Richard Wagner kicked off the discussion of a constitutional amendment requiring a balanced budget with their seminal work, *Democracy in Deficit: the Political Legacy of Lord Keynes*<sup>2</sup>. DRI/McGraw-Hill recently released a report on the economic impact of balancing the Federal Budget<sup>3</sup>. While some may argue correctly that the real issue is the size of government, nonetheless, unbridled accumulation of debt has an effect on the willingness of a democratically-elected Congress to control the growth of government. The size of the federal debt is affecting budget priorities by increasing interest payments, and slowing economic growth. As the debt limit is now a primary tool for affecting the accumulation of debt (See Section IV below), it is useful to briefly examine why the size of the United States debt is hampering our economic system and weakening our political system.

#### *Historical perspective*

The federal debt is surely one issue that needs to be placed in historical perspective. In 1792 the federal government had total income of only 88 cents per capita and ran a budget deficit of 38 percent of revenues. (See Section IV below.) The next year, as became the custom, the government reduced expenses, increased tax receipts, and showed its first surplus. The deficit did not reach 38 percent of revenues again until exactly 200 years later, 1992.

At the beginning of the Revolutionary War, the national debt amounted to \$80 million. However, the federal government ran only two deficits between the Revolutionary War and the War of 1812. By 1811, the total debt had fallen to about half of its 1795 level. By 1815, the effects of the War of 1812 had ballooned the debt to \$127 million. By 1829 the debt was reduced to less than \$50 million. Andrew Jackson then proceeded to eliminate totally the federal debt. The federal treasury had a positive balance on January 1, 1835.

Depressions and the Civil War turned this positive balance into a debt of almost \$3 billion by 1866. For the next twenty-eight years the federal government ran surpluses, whittling the national debt by two-thirds. The period surrounding World War I was similar, with the debt rising during the war and being reduced during the 1920s. The Great Depression and the advent of the Roosevelt-Keynesian revolution changed the pattern. From 1792 to 1930 there were ninety-three surplus years and forty-six deficit years. From 1930 on there have been only nine years where the federal government did not run a deficit.

While one can mark the beginning of continuous debt accumulation from the Roosevelt administration, it is only fairly recently that the debt has exploded when the nation has not been engaged in fighting a war. The gross federal debt was \$316 billion when President Clinton graduated from high school. It did not reach the one trillion mark until 1982. Today we are discussing how far to raise the debt limit above its \$4.9 trillion level, and this does not include some debt which is not subject to limit<sup>4</sup>.

When we consider the hidden costs of government and the long-term obligations that are disguised in most accounts of the federal government's debt, we cannot overlook the unfunded liability for federal pensions. In its September 30, 1994, report on the Civil Service Retirement System, the Office of Personnel Management reported that federal pensions have an unfunded accrued actuarial liability of \$540.1 billion. In combination with the \$491.4 billion unfunded liability for pensions owed to the nation's veterans, these obligations of the federal government easily surpass one trillion dollars. As the Concord Coalition observed in its 1995 report on federal pensions, "To the extent that the government's pension promises are considered unbreakable, they will have to be paid off—just like the national debt. Yet these liabilities are currently 'off the books.'"<sup>5</sup>

#### *The effect of the debt-public choice theory*

Nobel Laureate James Buchanan and his colleague Richard Wagner developed the argument for a balanced budget amendment in their 1977 work<sup>6</sup>. The thrust of their argument is that candidates for Congress who promise extra spending and new pro-

<sup>1</sup> The University of Chicago Press, 1976, Part II, Bk. V, Ch. III.

<sup>2</sup> New York: Academic Press, 1977.

<sup>3</sup> "Economic Impact of Balancing the Federal Budget", October 1995, Principal Investigators: David Wyss, Mark Lasky, Kristina Frenyea.

<sup>4</sup> The debt not subject to limit includes the unamortized discount on Treasury Bills and zero-coupon Bonds of slightly more than \$74 billion, \$15 billion in Federal Financing Bank bonds issued pursuant to 31 U.S.C. § 3101, and \$589 million of miscellaneous debt.

<sup>5</sup> Peter G. Peterson, "Introduction," in Neil Howe and Richard Jackson, *The Facts about Federal Pensions* (Washington: The Concord Coalition, 1995).

<sup>6</sup> *op cit.*

grams without raising taxes will defeat candidates who support tax increases to pay for new programs or who offer no new programs. The reason is that the issuance of debt to fund such programs is a hidden way of paying for them. Government debt issuance will result in higher interest rates and lower private investment, thus leading to slower economic growth. However, this linkage is too subtle for the average voter to discover. If the interest rates get sufficiently high so that attention is brought to deficit spending, then the Federal Reserve will monetize the debt by Fed purchasing Treasury securities.

Federal Reserve purchases of Treasury securities directly expand the monetary base. The expansion of the monetary base increases the supply of money. The increase in the supply of money reduces the purchasing of money, which is another way of describing inflation. Inflation reduces the real wealth of those that were holding wealth in the form of dollar-denominated assets, such as retirement savings. In this way the resources necessary to accomplish the government programs are obtained from economic actors. This linkage is complicated, and thus disguises the real cost of government programs. For example, as a result of the hidden unfunded liability of federal pension programs, the true costs of the federal payroll are understated by approximately 30 percent. This leads to a greater demand for government services and a greater growth of government than would be the case if the true cost were made known. This leads Buchanan and Wagner to argue for a balanced budget amendment to restore what they feel was the implied fiscal constitution prior to the acceptance of the Keynesian notion that public debt is a useful tool to enforce macroeconomic policy.

The Buchanan-Wagner analysis demonstrated how public debt leads both to the eventual collapse of the monetary system and all the attendant effects on the economy, as well as to an enlarged government. The solution proposed by Buchanan and Wagner is to restore the implied fiscal constitution that existed for the first 180 years of the Republic through a balanced budget amendment. Whether this is the correct solution may be open to reasonable discussion, however, the cost of increased federal spending should be made explicit rather than masked through the debt process.

#### *The effect of the public debt—the economy*

Decades ago, Nobel Laureate Milton Friedman, through his explanation of the "crowding out" effect, refuted the Keynesian arguments that deficit spending enhanced the economy.<sup>7</sup> The basic point is that government borrowing displaces or "crowds out" private sector borrowing. When this happens, there is less physical and human capital in the economy. Less capital means that workers produce less than they otherwise would and thus have lower earnings. Wages and production are less than when government does not borrow to finance its transfers and services.

There have been recent attempts to measure the effect of the public debt on the economy. A study prepared by DRI/McGraw-Hill measured the effect of balancing the federal budget by the year 2002.<sup>8</sup> The study is based on the Balanced Budget Act (H.R. 2491), which would result in a balanced budget in the year 2002. DRI estimates that the 30 year Treasury bond yield would be 270 basis points lower under the Balanced Budget Act. This would result in fixed mortgage rates which are 2.7 percentage points below what they otherwise would be. Annual savings for a \$50,000 mortgage would exceed \$1000. Housing starts would rise by 65,000. The seven year accumulated Gross Domestic Product in constant 1987 dollars exceeds the baseline more than \$200 billion.

The Heritage Foundation published a paper by two economists who used the Laurence H. Meyer and Associates macroeconomic model to project the effects of the balanced budget plan as passed by the Congress.<sup>9</sup> They concluded that a balanced budget would yield an additional \$32.1 billion in real disposable income over the period 1995 through 2002. Over the same period there would be an additional \$66.2 billion in consumption expenditures, an additional \$88.2 billion in real non-residential fixed investment, and an additional 103,700 housing starts.

The International Monetary Fund estimated that a balanced federal budget would have reduced interest rates in the United States on U.S. Treasury bills by more than two percentage points in 1984.<sup>10</sup> Federal Reserve Board Chairman Alan Greenspan has estimated that balancing the federal budget could lower interest rates by

<sup>7</sup> See Robert Gordon (ed.), *Milton Friedman's Monetary Framework*, University of Chicago Press, 1974.

<sup>8</sup> *op cit.*

<sup>9</sup> "What a Balanced Federal Budget with Tax Cuts Would Mean to the Economy," William Beach and John Barry, The Heritage Foundation, Washington D.C. 20002, November 14, 1995.

<sup>10</sup> Fiscal Deficits and Interest Rates in the United States: An Empirical Analysis, 1960-1984, Vito Tanzi, *International Monetary Fund Staff Papers*, December 1985.

a like amount. The Congressional Budget Office estimates a balanced budget would lower interest rates by about 1.2 percentage points, and would increase GDP in the year 2002 by half a percentage point, or nearly \$50 billion.<sup>11</sup>

While the exact increase in GDP over a seven year period cannot, of course, be estimated with a great degree of certainty, what is certain is that GDP, wages, and personal income will all be higher than they would otherwise be. To quote a recent Congressional Research Service report, "As displacement (by government borrowing) of capital formation continues over the years, it is having more sizeable restraining effects on private-sector output levels, productivity, and living standards."<sup>12</sup>

## Section 2: The Legal Issues Surrounding the Disinvestment of the Civil Service Retirement Fund

### INTRODUCTION

On November 15, 1995, the Secretary of the Treasury ("Secretary") declared a "debt issuance suspension period" and disinvested the Civil Service Retirement and Disability Trust Fund ("CSRDF" or "the Fund") of \$39.8 billion ("the disinvestment").<sup>13</sup> This was done to allow the Treasury to make a sizeable debt interest payment due that day.<sup>14</sup> It accomplished this by replacing government securities known as Treasury "specials" with non-interest bearing IOUs.<sup>15</sup> The effect of this was to lower the amount of debt that counts toward the federal debt ceiling imposed by Congress. Therefore, it was able to issue new, marketable debt.<sup>16</sup>

This had three effects. First, it restored the debt level to where it has previously been. Second, it put \$39.8 billion in the Treasury's cash account. Finally, it will ultimately increase the debt of the United States because these IOUs must be replaced with the Treasury specials as soon as the Treasury can again issue new debt.<sup>17</sup> As a result, it now appears that Treasury will have enough cash to last through mid-March.<sup>18</sup> However, Secretary Rubin has stated that he does not have any further options than those he has taken that would extend Treasury's ability to continue paying bills past that date. He also announced that he was extending the debt issuance suspension period from 12 to 14 months, and thus taking an additional \$6.4 billion.<sup>19</sup>

A number of legal opinions have been released regarding various issues surrounding Secretary Rubin's disinvestment of the trust funds.<sup>20</sup> Because there are no regulations or cases directly on point, the legal issues are mostly statutory.

Some of the documents whose conclusions are summarized include:

Memorandum from Edward S. Knight, Treasury Department General Counsel, to Secretary Rubin dated November 15, 1995, "Certain Authorities of the Secretary of the Treasury respecting the Civil Service Retirement and Disability Fund" ("Knight").

Memorandum from Walter Dellinger, Assistant Attorney general—Office of Legal Counsel ("OLC"), to Edward S. Knight dated November 10, 1995, "The

<sup>11</sup> "The Economic and Budget Outlook: December 1995 Update," Congressional Budget Office, Washington D.C.

<sup>12</sup> "The Federal Debt: Who Bears Its Burdens?", Wm. Cox, Congressional Research Service, 10-25-95, IB92049, p. 8.

<sup>13</sup> *Humbled Prophet*, Economist, Nov. 18, 1995. The Secretary also disinvested approximately \$18 billion from the Government Thrift Fund. *The Role of Federal Retirement Funds in Financing Federal Spending During the Debt Issuance Suspension Period*, CRS Memorandum from Carolyn Merck, December 27, 1995 ("Merck"), 1.

<sup>14</sup> Joint Economic Committee, *The Sky is Falling 1* (rev. ed. November 27, 1995) (unpublished manuscript).

<sup>15</sup> In reality, this is done by changing entries in a computerized ledger. Physical paper is no longer used to represent obligations of this nature.

<sup>16</sup> Merck, *supra* note 1.

<sup>17</sup> 5 U.S.C. §8348(j)(3)(1986).

<sup>18</sup> This extension of the "drop dead" date was made possible by the passage of legislation enabling the Treasury temporary "off the books" borrowing power equal to one payment of Social Security obligations. Secretary Rubin has testified that his actions of November 15th disinvesting the CSRDF as well as the G-fund would allow Treasury to operate until late December. He underinvested a \$14.5 billion payment into the CSRDF on December 29, which allowed Treasury to operate through the end of January and possible into early February. Statement of Treasury Secretary Robert E. Rubin Before the House Committee on Banking and Financial Services (December 13, 1995) 6-7 (available from the committee).

<sup>19</sup> Letter from Secretary Rubin to Speaker Gingrich (January 21, 1996).

<sup>20</sup> In addition, House Ways and Means Committee Chairman Archer has sent a letter to Secretary Rubin questioning the Treasury's authority in this matter and warning of a potential constitutional crisis. Wall St. J., Dec. 27, 1995, at 40.



Secretary of the Treasury's Authority With Respect to the Civil Service Retirement and Disability Fund" ("Dellinger").

Memorandum from the Joint Economic Committee, "Secretary Rubin's Misuse of Federal Pension Funds to Avoid the U.S. Debt Limit," ("JEC").

"Authority to Tap Trust Funds and Establish Payment Priorities if the Debt Limit is Not Increased", CRS Report 95-1109A, Nicola, Thomas J. and Rosenberg, Morton, November 9, 1995. ("Nicola *et al.*").

#### DISCUSSION

The Constitution grants to Congress the power to borrow money on the credit of the United States.<sup>21</sup> As a result the executive branch's authority to borrow money is defined by Congress through statute.<sup>22</sup> Until 1917, this power was granted on a loan by loan basis. Congress authorized individual amounts to be borrowed, and set the terms by statute. The executive has no ability to borrow on its own. In 1917, due to the financial exigencies created by World War I,<sup>23</sup> Congress passed the First Liberty Bond Act. This was amended that same year in the Second Liberty Bond Act, which established a ceiling on how much the executive branch could borrow while leaving the details to the executive.<sup>24</sup> Today, the Congress attempts to control the national debt by establishing legal ceilings on the borrowing authority.<sup>25</sup>

In order to alleviate the burden of the debt ceiling, the House of Representatives enacted House Rule XLIX, the so-called "Gephardt Rule." Under the Gephardt Rule, when Congress enacts a budget resolution that requires raising the debt ceiling, the House automatically passes a joint resolution doing so by the needed amount. This avoids a separate vote on the debt ceiling by a legislative technicality. The 104th Congress suspended the Gephardt Rule through fiscal year 1996 and passed a "sense of the House" statement in the FY 1996 budget resolution. H. Con. Res. 67, which also calls for its permanent repeal. Several bills which would accomplish the latter are pending.<sup>26</sup>

The sentiment in Congress favors retention of the debt ceiling as a tool to limit spending and borrowing. The current situation arises because of certain actions taken by the executive branch in regard to certain federal government trust funds established to pay pensions to federal employees.

#### *The secretary's authority over the CSRDF*

Under normal circumstances, the Secretary is required to invest funds not "immediately required for payments from the fund" in non-marketable, interest-bearing securities of the United States.<sup>27</sup> The amounts invested count against the federal debt limit imposed by Congress.<sup>28</sup> However, a 1986 amendment explicitly authorizes the Secretary to disinvest the CSRDF in limited amounts and circumstances.<sup>29</sup> This statute provides that the Secretary may disinvest if he determines that a "debt issuance suspension period" ("the period") occurs.<sup>30</sup> A debt issuance suspension period is defined as:

<sup>21</sup> "The Congress shall have the power To borrow Money on the Credit of the United States," U.S. Const. art. I, § 8, cl. 2.

<sup>22</sup> The current executive borrowing authority resides at 31 U.S.C. §§ 3101-3112.

<sup>23</sup> "The law was initially adopted to facilitate wartime planning and execution and to accommodate the Treasury's need for flexibility in financing growing Government activities," *The Debt Limit*, CRS Report #IB93054, 1.

<sup>24</sup> *Supra*, note 11.

<sup>25</sup> This amount is currently set at \$4,900,000,000,000. 31 U.S.C. § 3101(b) reads:

The face amount of obligations issued under this chapter and the face amount of obligations whose principal and interest are guaranteed by the United States Government (except guaranteed obligations held by the Secretary of the Treasury) may not be more than \$4,900,000,000,000 outstanding at one time, subject to changes periodically made in that amount as provided by law through the congressional budget process described in Rule XLIX of the Rules of the House of Representatives or otherwise.

<sup>26</sup> See, e.g., H. Res. 138, 104th Cong., 1st Sess. (1995) (introduced by Rep. Smith (R-MI)), H. Res. 28, 104th Cong., 1st Sess. (1995) (introduced by Rep. Stearns (R-FL)) and H.R. 215, 104th Cong., 1st Sess. (1995) (introduced by Rep. Crapo (R-ID)).

<sup>27</sup> 5 U.S.C. § 8348(c).

<sup>28</sup> 5 U.S.C. § 8348(d).

<sup>29</sup> 5 U.S.C. § 8348(k). On December 14, 1995, the House passed H.R. 2621 which would explicitly prohibit the Secretary from underinvesting or disinvesting any government trust fund for purposes of artificially altering the level counted towards the debt limit.

<sup>30</sup> *Id.*

any period for which the Secretary of the Treasury determines for purposes of this subsection that the issuance of obligations of the United States may not be made without exceeding the public debt limit.<sup>31</sup>

The amount available to disinvest is limited to:

to the extent necessary to obtain any amount of funds not exceeding the amount equal to the total amount of payments authorized to be made from the Fund under the provisions of this subchapter or chapter 84 of this title or related provisions of law during such period.<sup>32</sup>

Currently, benefits being paid out by the CSRDF equals \$3.2 billion per month.<sup>33</sup> The Secretary made an initial determination that the period would last one year.<sup>34</sup> Thus, he obtained approximately \$39 billion in extra borrowing authority under this statute. This was done to avoid defaulting on bond principal and interest payments due on November 15th and 16th.<sup>35</sup> However, by doing so, several questions have been raised about the propriety of the length of the period (which determines the amount can be disinvested) and the uses to which the disinvested funds may be put.

The purpose of the 1986 amendment was to protect the CSRDF rather than to give the Secretary powers to fund the government in case the debt limit was reached. After the period is over, the Secretary must reinvest all funds and take whatever steps needed to make the fund whole as if it had never been disinvested or underinvested. The 1986 amendments, according to OLC, were in anticipation "that the CSRDF might incur financial losses as a result of actions taken by the Secretary during a debt limit crisis."<sup>36</sup> Its purpose was to "mitigate those losses and ensure that, after the expiration of the debt limit crisis, the Fund would be placed in the financial position it would have been in had the actions taken by the Secretary not occurred."<sup>37</sup>

#### *The nature of the period*

Several issues arise regarding the length of the debt limit suspension period. The first goes to the nature of the period. Is it something that the Secretary declares in existence during which he may disinvest an amount equal to payments as they become due (a contemporary period)? Or may he project that the period will exist for a certain length of time and immediately disinvest all payments which would occur during the period (a projected period)?

To use an example, suppose that the conditions for a debt issuance suspension period occurred between March 1 and July 1. Would the Secretary be able to only disinvest payments of \$3.2 billion as they came due until the period ended? Or would he be able to predict on March 1 how long the period would last and disinvest all payments scheduled to be made during the projected period on March 1?

The Administration has taken the latter position. Secretary Rubin apparently asked his counsel to analyze the legality of a one year debt suspension period and whether he could disinvest a full year's worth of payments immediately.<sup>38</sup> He then proceeded to do so.<sup>39</sup> CRS has indicated that the amount of redemption is not limited to one month's payments "since the Secretary is authorized to determine the 'debt issuance suspension period' during which sales and redemption are to be made."<sup>40</sup>

<sup>31</sup> 5 U.S.C. § 8348(j)(5)(B).

<sup>32</sup> 5 U.S.C. § 8348(k)(2).

<sup>33</sup> *Dellinger* at 2.

<sup>34</sup> *Factual Determination of the Secretary*, November 15, 1995. Also, see, Letter from Robert E. Rubin to Rep. Jim Saxton (November 22, 1995).

<sup>35</sup> The administration has adopted a broad definition of "default." It seems to interpret any delay of any payment due any payee as constitution a default. Treasury Undersecretary John Hawke has argued against prioritizing payments on such grounds. "Prioritization is simply another term for default." Hawke, *Debt-limit Brinkmanship Threatens America's Economy*, Insight, Nov. 6, 1995, at 18-19. Treasury Secretary Rubin has asserted that such would be unprecedented. *Ibid.* However, this is not the case. During the 1950's the government was forced due to the lengthier congressional recesses to delay payments due and owing to defense contractors for work in progress. Robinson, *The National Debt Ceiling: An Experiment in Fiscal Policy*, 41 (1959). Such actions would constitute a "default" under the current definition apparently adopted by the Treasury.

<sup>36</sup> *Dellinger* at 4.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Knight* at 1.

<sup>39</sup> Merck, *supra*, note 1. At a hearing held by the House Banking and Financial Services Committee on December 13, 1995, Secretary Rubin indicated that his counsel had advised him that a period of 14 months would have been reasonable. Notably, this is the length of time between November 15th, 1995, and the next inauguration.

<sup>40</sup> *Nicola et al.* at 4.

OLC shares this conclusion. It does acknowledge, however, that:

It could be argued that the term "debt issuance suspension period" cannot properly refer to a specific period of time set by the Secretary based on his reasonable assessment of when, after being prevented on account for the debt limit from issuing obligations of the United States, Treasury will be able to issue those obligations, but must, instead, refer to that length of time that follows the Secretary's initial determination of his inability to issue obligations of the United States during which the conditions that gave rise to the determination remained in effect.<sup>41</sup>

While OLC finds this theory "plausible" it concludes that the interpretation allowing the Secretary to project the period's length forward in time "is more consistent with the statute's text and structure."<sup>42</sup> Further, even if it is ambiguous, OLC notes, Treasury is free to interpret it freely under the doctrine of *Chevron v. National Resources Defense Council*.<sup>43</sup>

Two former Attorneys General have concluded that what OLC terms the "alternative" interpretation is, in fact, the proper one. In a joint letter to the House Speaker and Senate Majority, they state "The statute plainly envisions that the Secretary determine when a 'debt issuance suspension period' has come into existence and then authorizes the Secretary to disinvest the amount of monthly payments as long as the period lasts and as the payments become due." Further, they note that 5 U.S.C. § 8348 "contemplates that disinvestment occur only when necessary to avoid exceeding the debt limit." Therefore, they conclude, "Immediate disinvestment of amounts equal to aggregate future payments before they are due does not meet this standard."<sup>44</sup>

Although the statute is not worded clearly, its text, structure and intent militate strongly against the administration's reading, which would render the CSRDF governing statute illogical and subject to capricious manipulation by the Secretary contrary to the canons of statutory construction.<sup>45</sup> First, it makes sense to limit the Secretary's discretion in the context of a contemporary rather than a projected period. The Secretary is in a perfect position to judge his capacity to issue new debt without violating the limit. He knows the cash on hand and the current financial needs of the Treasury. This makes him the ideal government official to determine whether "issuance of obligations of the United States may not be made without exceeding the public debt limit" at any given time. However, when he adopts a projected period, he is predicting what Congress and the President will do in regards to raising the debt ceiling. However, he enjoys no advantage when making this decision vis a vis other observers. Worse, his position as the nation's chief financial officer creates a conflict of interest in making any prediction in this regard. Because his role requires that the Secretary pay the obligations of the United States in a timely manner, he has an incentive to engage in creative analysis. Therefore, given that the Secretary has an institutional advantage in determining a contemporary but a disadvantage in determining a projected period, it is to be inferred that the contemporary period is the correct one.

Further, the amounts of future payments from the CSRDF, while predictable, cannot be determined with absolute precision. Therefore, the Secretary is forced, by the administration's interpretation, to estimate future payments. This requirement, which cannot be made with precision, casts further doubts on the administration's interpretation of 5 U.S.C. § 8348.

Next, the purpose of 5 U.S.C. § 8348 is useful to determine the meaning of a period. The "purpose of a statutory provision is the best test of the meaning of the words chosen." *Cawley v. United States*.<sup>46</sup> The legislative history of 5 U.S.C. § 8348

<sup>41</sup> *Dellinger* at 9.

<sup>42</sup> *Dellinger* at 9.

<sup>43</sup> 467 U.S. 837 (1984). *Chevron* requires that courts reviewing executive action give deference to an agency's statutory interpretation. This must be distinguished from the underlying analysis of whether the agency has acted in accord with the law. Arguably, an agency should interpret the law objectively as best it can rather than pose the question, "what can we get away with in the courts?"

<sup>44</sup> Letter from former Attorneys General William Barr and Edwin Meese to Speaker Newt Gingrich and Senate Majority Leader Bob Dole (December 19, 1995) (emphasis added).

<sup>45</sup> "Legislative enactments should never be construed as establishing statutory schemes that are illogical, unjust or capricious." *Bechtel Construction v. United Brotherhood of Carpenters*, 812 F.2d 1220, 1225 (9th Cir. 1987).

<sup>46</sup> 272 F.2d 443, 445 (2nd Cir. 1959) (opinion of Judge Learned Hand), cited with approval in, *U.S. v. Bacto-Unidisk*, 394 U.S. 784, 799 (1968) fn. 18. Executive branch decisions made pursuant to statute must be exercised "consistently with the structure and purposes of the statute

makes clear that the protection of the CSRDF, and not the financing of the government during a debt ceiling impasse, was the goal of the section. In order to appreciate the need for § 8348, a brief background on the debt ceiling impasse of 1985 is necessary.

In 1985, there was a similar impasse between House Democrats and a Republican White House. Treasury, in anticipation of having its borrowing ability curtailed by an approaching debt ceiling, began to take "extraordinary measures." When it actually ran up against the limit, the Treasury underinvested the CSRDF to avoid going over the debt limit. Further, it limited its disinvestment to amounts needed to make current payments to beneficiaries.<sup>47</sup> Unlike other trust funds, the CSRDF did not have the statutory provision allowing disinvestment for the purpose of paying beneficiaries at the time.<sup>48</sup> Therefore, there were no provisions for reinvesting the fund and restoring lost interest. To ensure that the CSRDF would not lose interest in the future from similar activities, Senator Slade Gorton introduced an amendment on the Senate floor containing explicit provisions for disinvestment. At that time he stated:

I would like to address the provision regarding the disinvestment of the Social Security and civil service retirement funds. Time and time again retirees in my State have expressed fear over the fact that money could be borrowed from the trust funds, get used for other programs and never be repaid. I believe this amendment will absolve these fears because it lays everything out in black and white and guarantees that if there is ever a need to borrow from the trust fund, that the money borrowed will be repaid in full—with interest.<sup>49</sup>

The record contains other, similar, statements. Especially interesting was then-Senator Albert Gore's:

Like the Social Security trust fund, the civil service retirement and disability fund is a dedicated trust fund and as such, its assets may only be used to provide benefits to civil service retirees.<sup>50</sup>

If the administration's reading is correct, it would allow the immediate emptying of the CSRDF if the Secretary was willing to project a period of sufficient length. However, from the hearing and floor statements, it is evident that the protection of the CSRDF was the goal of § 8348. Nowhere in the legislative history is it suggested otherwise. Given the legislative intent of the section, the administration's reading of § 8348 is outside the range of permissible administrative interpretations.

#### *The length of the period*

Next, if the Secretary has acted properly in projecting a period and disinvesting all payments due during that period, what limits exist on the projected period?

The Administration concedes that the Secretary's determination must be "reasonable."<sup>51</sup> The Justice Department characterizes the Secretary's discretion as "broad" but "not unlimited."<sup>52</sup> There is no source of guidance other than the statute regarding the method of determining the length of the period. Therefore, OLC concludes that there is no public notice and comment period necessary. However, the Secretary must base his decision on a "factual record."<sup>53</sup> OLC concludes that because the setting of the period constitutes agency fact finding, it is to be upheld as long as it is not "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance of law."<sup>54</sup> Further, Treasury counsel has also concluded that the determination must be fact based.<sup>55</sup> Therefore, it is undisputed that the Secretary cannot simply use whatever length of time will provide him with enough cash to run the govern-

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that delegated the power." *Chamber of Commerce v. Reich*, F.3d (D.C. Cir. 1996), 1996 WL 39538, \*8. "According to a centuries-old rule of interpretation, an enactment is to be construed in light of the evil it was designed to remedy, and the rule has often been applied by federal courts." R. Berger, *Federalism: The Founders Design* 128 (1987).

<sup>47</sup> *The Civil Service Retirement Trust Fund: Hearing Before the Subcomm. on Compensation and Employee Benefits*, 99th Cong., 1st Sess. 1 (1985) [hereinafter *Hearings*] (statement of Rep. Rose Mary Oakar).

<sup>48</sup> *Id.*, at 10.

<sup>49</sup> Cong. Rec. S24903 (daily ed. September 19, 1986) (statement of Senator Gorton).

<sup>50</sup> Cong. Rec. S18732-3 (daily ed. September 19, 1986) (statement of Senator Gore).

<sup>51</sup> See *Chevron* at 844. Also, see, *American Telephone and Telegraph v. U.S.*, 299 U.S. 232, 235-237 (1936), and *Batterton v. Francis*, 432 U.S. 416, 424-426 (1977).

<sup>52</sup> *Dellinger* at 2.

<sup>53</sup> *Dellinger* at 8.

<sup>54</sup> *Dellinger* at 8, citing 5 U.S.C. § 706(2)(A).

<sup>55</sup> *Knight* at 7-8.

ment. Rather, he must make a fact based, reasonable and good faith, or non-arbitrary, determination of how long the period will run.

Next, what factors may be used by the Secretary in making a factual determination of the period's length?

Treasury Counsel has concluded that the factors used are left to the discretion of the Secretary.<sup>56</sup> Yet, as mentioned above, the conclusion must be "fact based."<sup>57</sup> He concludes that the factors the Secretary identified he would use, namely 1) the seriousness of the impasse between the Congress and the President over acceptable terms for an increase in the public debt limit; and 2) the Secretary's uncertainty as to when he will be able to issue obligations of the United States without exceeding the public debt limit.<sup>58</sup> OLC has opined that "it is appropriate for the Secretary to take into account public statements made by Congressional leaders and the President concerning their willingness to take the steps necessary to cause an increase in the debt limit."<sup>59</sup>

Assuming that these factors are appropriate to use in setting the length of the period, it must next be asked whether they justify the year length set by the Secretary. Treasury Counsel concludes that they do. Regarding the first factor ("seriousness of the impasse"), he notes:

Members and the leaders of the Congress have made numerous unequivocal public statements that they will not vote in favor of an increase in the current public debt limit unless the President agrees to certain conditions, and that a debt payment default by the United States is acceptable to them. The President has publicly stated that the conditions imposed by those members of Congress are unacceptable to him.<sup>60</sup>

Regarding the second factor identified by the Secretary (when he will be able to issue new debt obligations), Treasury Counsel concludes again that the Secretary is justified in setting a one year period. This is because there is existing a "complex and fluid situation," which "could continue through the next general election." Therefore, Treasury Counsel concludes, "You cannot be certain that you will be able to issue obligations of the United States during the period that begins today and ends 12 months from today . . ."<sup>61</sup> Although Treasury counsel concedes that it is possible that the period could last less than 12 months, the legal question involved is "whether it is reasonable for the Secretary to conclude, based on the information available to him today and the factors that he has identified as being relevant" that he will be unable to issue debt obligations for one year.<sup>62</sup>

There are several problems with this analysis. First, it is highly misleading to represent the public comments of various participants in the budget fight as being a complete guide to how long it will be before the debt ceiling is raised. It is also necessary to ask how long other debt limit crises have lasted. The longest amount of time during which the period would have applied in recent years had it been invoked is only several weeks.<sup>63</sup> Most, however, have only lasted a few days. Given the real, historical record, Secretary Rubin's determination is not reasonable as required.

The question then remains, why did he set it at one year? The answer appears that this was the length of time needed to produce the revenues that he felt were

<sup>56</sup> Knight at 7.

<sup>57</sup> Knight at 7-8.

<sup>58</sup> Knight at 8.

<sup>59</sup> Dellinger at 9. Once again, the fact that the Secretary is not in a particularly good position to determine this is evidence that the administration has misinterpreted the meaning of the period under 5 U.S.C. § 8348.

<sup>60</sup> Knight at 8. Specifically, Treasury Counsel notes that the Debt Limit Coalition, a 151 member group of House Members, sent a letter to the President stating, "we . . . will not vote to increase the debt ceiling until legislation is enacted ensuring the government is on a true glide path to a balanced budget by 2002 or sooner," Letter to President Clinton (June 30, 1995). The letter was drafted by Reps. Chris Shays (R-CT), Nick Smith (R-MI), Jon Christensen (R-NE) and Joe Scarborough (R-FL).

<sup>61</sup> Knight at 9. The statute, however, calls for a determination of the period during which *cannot* issue new debt without exceeding the debt limit, not the period during which he is *unsure* whether he could. This is further evidence that the Secretary failed to follow the letter of the statute and that his determination was not made in compliance with it.

<sup>62</sup> Knight at 9, fn. 22.

<sup>63</sup> There may have been longer such periods, especially in the 1950s. However, this appears to be due mainly to the fact that Congress took substantially longer recesses during the session than they do now and would not always raise the debt ceiling before they left.

necessary.<sup>64</sup> It is too much of a coincidence to believe otherwise. On January 22, 1996, the Secretary announced, in the same letter where he discussed his current cash needs and requested an extension of the debt ceiling from Congress, that he was going to extend the debt issuance suspension period from 12 to 14 months. This was done without an explanation of why he feels that it will suddenly take 14 months rather than 12 to obtain new borrowing authority. That Secretary Rubin backed into his one year determination rather than made it based on objective facts is now inescapable. Therefore, even if his determination met the reasonableness test, it still fails *Chevron's* requirement that his determination not be arbitrary. In reality, the Secretary's determination fails all of the requirements outlined by his own counsel.

#### *Use of the disinvested funds*

Questions have been raised about whether the proceeds of CSRDF disinvestment may be used for general fund purposes or for payments to fund beneficiaries only. The Joint Economic Committee has argued that the latter is the case. Its argument rests on the legislative history of 5 U.S.C. § 8348(k).

Although no language specifically binds the Secretary in such a manner, JEC notes that the original language in the Senate *did* contain such a restraint. However, this language was removed in conference committee. Rather than being evidence that this indicated an intent to allow the general use of the disinvested funds, JEC concludes that there was a different motive for the removal of the restrictive language:

Since the Federal Reserve system could not distinguish which payments are for civil service benefits, the best way to ensure the disinvested funds were limited to civil service benefits was to limit the amount of disinvested funds to the total needed during the debt suspension period.<sup>65</sup>

Further, former Treasury Department Deputy Assistant Secretary Robert Zoellick has observed that the use of trust fund assets to pay general treasury obligations "undermine[s] the meaning of trust funds and the purpose of the debt limit."<sup>66</sup>

CRS has opined that the disinvested funds are not so restricted:

It may be noted that the purpose for which the proceeds of sales or redemptions are to be utilized is not specifically limited to payment of benefits due under the program. This is underlined by the last sentence of the subsection which allows sales or redemptions even if there are sufficient funds available at the time of the sales to timely pay benefits.<sup>67</sup>

Not surprisingly, the administration has taken the same position:

When sufficient uninvested cash exists in the CSRDF to pay benefits, the Secretary may use debt issuance capacity freed up by his redemption of Fund investment assets to increase, through the issuance of obligations of the United States, the amount of cash available in Treasury's general cash account.<sup>68</sup>

And:

Any debt issuance capacity under the public debt limit that would be made available from such redemptions may be used to issue new debt obligations of the United States to obtain additional funds for the Treasury's cash account.<sup>69</sup>

#### *Other potential limits on the Secretary's ability to raise cash*

Most who have examined this issue have concluded that the debt ceiling itself does not place an independent limitation upon the Treasury in this case. Therefore, assuming that the Secretary has acted legally under the statute governing the CSRDF, the fact that the debt limit is effectively circumvented is irrelevant for legal purposes. This is because Congress itself has created this "loophole" in 5 U.S.C. § 8348. If the Secretary has acted properly under the statute, he cannot be faulted for using it. In effect Congress itself has done the disinvesting because it will have

<sup>64</sup> The Secretary maintains that he was unsure that there would be an increase in the debt ceiling for a year. *Merck* at 4, fn. 3.

<sup>65</sup> JEC at 8.

<sup>66</sup> Statement of Robert Zoellick Before the House Committee on Banking and Financial Services (December 13, 1995) 11 (available from the committee).

<sup>67</sup> *Nicola et al.* at 4.

<sup>68</sup> *Dellinger* at 6.

<sup>69</sup> *Knight* at 10.

delegated its borrowing authority under the Constitution. Therefore, if the Secretary acted properly under the statute, he is not otherwise bound by 31 U.S.C. § 3101(b).<sup>70</sup>

#### CONCLUSIONS

(1) The Secretary is empowered to disinvest the CSRDF when he makes a reasonable, fact-based determination that he is unable to issue obligations of the United States without exceeding the public debt limit.

(2) The amount of money that he may disinvest is not unlimited.

(3) The Secretary's power to disinvest is limited to the amount of payments due from the CSRDF during the period of time when he is unable to issue obligations of the United States without exceeding the public debt limit.

(4) The debt issuance suspension period commenced when declared by the Secretary on November 15, 1995.

(5) The debt issuance suspension period will end when the Secretary makes a determination that he can once again issue obligations of the United States without exceeding the public debt limit or for 14 months after its commencement, whichever is first.

(6) The amount available for disinvestment is limited to payments only as they come due and payable.

(7) The Secretary could reasonably be considered allowed, under the statute, to disinvest \$3.2 billion at the beginning of every month.

(8) By disinvesting in excess of the amounts as they become due and owing, the Secretary has exceeded his authority. 5 U.S.C. § 8348 (c) and (k).

### Section 3: Secretary Rubin's Recent Activities Regarding the Debt Ceiling

#### INTRODUCTION

After weeks of histrionic Administration warnings about how failure to raise the debt limit would bring default and catastrophic economic consequences, President Clinton chose to veto a temporary debt limit increase on November 13, 1995. Failure to raise the debt limit would not have triggered default because the Administration had already identified available means of managing the situation, despite its repeated public warnings to the contrary. The Clinton Administration position was thus revealed as an attempt to mislead Congress and the public based on financial assumptions its knew to be false.

As veteran political correspondent Donald Lambro observed five days before the debt limit was reached, a House JEC staff report had already pointed out that the "White House warnings of a default are a 'charade.' It concluded the president has plenty of authority to defer or slow down spending, or use cash assets such as pension fund reserves to meet debt payments." This report, *The Clinton Administration's Debt Limit Charade*, went on to point out that the Administration had fostered the situation by failing to defer or rescind unnecessary discretionary spending to alleviate the situation. The report also emphasized that the Administration's default ruse was a distraction from the central issue: Republican insistence on a balanced budget, as opposed to the Clinton Administration's preference for higher deficit spending and debt accumulation.

Early in November it became evident that the White House's public posture was stiffening as it prepared in advance for the President's veto of the debt limit increase. This even more aggressive attempt to heighten the crisis atmosphere was not a preparation for default, as it may have appeared to some at the time, but reflected the determination of Administration officials to maximize partisan political advantage from the fallout and confusion of the coming veto.

The events of the last few days have made it clear that the Clinton Administration prepared in advance to veto the debt limit and Continuing Resolution (CR) as the first media event of the 1996 election campaign. As one Clinton Administration official stated on the front page of the *New York Times*, "That's his re-election campaign," an aide said. "He's prepared to fight all winter on that line." This statement exposes the Clinton Administration strategy to foster and sharpen the confrontation

<sup>70</sup> See *Dellinger* at 16, and *Knight* at 2. JEC has issued a dissenting opinion. Because it believes that the Secretary may only use the funds to pay current obligations which would presumably diminish the CSRDF's liabilities, the effect would not be to circumvent the limit. Therefore, they conclude that a disinvestment which would ultimately require under existing statutes that the debt level exceed the limit is a violation of the limit itself. *JEC* at 10. OLC also argues that the contingent liability created by disinvestment is not the type of liability taken into account by the debt ceiling. *Dellinger* at 16.

over the veto of the debt limit and CR legislation to kick-off the President's re-election effort, and keep its opponents off balance. Initially the Administration had the upper hand because only it knew the exact timing and content of actions to be taken to evade the debt limit—after distracting public opinion for months with disinformation about default. Once the focus returned to the central issue of deficit spending, the Administration's position started to erode.

*Secretary Rubin's raid on retirement funds triggers Armev/Saxton request*

On November 15, 1995, Treasury Secretary Robert Rubin announced his plan to disinvest the "G" fund of the federal employee Thrift plan, and the Civil Service Retirement and Disability fund, in order to create room under the debt ceiling for issuance of new debt. This circumvention of the debt limit essentially evades a constraint rooted in Article I of the Constitution which states: "The Congress shall have Power . . . To borrow Money on the credit of the United States." The Secretary's actions permitted the issuance of over \$60 billion of additional debt, enough to finance monthly federal deficits through January.

In response, on November 17, House Majority Leader Dick Armev and JEC Vice-Chairman Jim Saxton sent Secretary Rubin a letter requesting information regarding when Treasury staff first examined the financing options presented by the retirement funds. Inflammatory public statements about default by Secretary Rubin, White House Chief of Staff Leon Panetta, and other Clinton Administration figures had created the impression that the administration was pursuing a deliberate attempt to disrupt the financial markets to undermine its opponents.

The Administration documents received under this request suggest that plans for the disinvestment of the retirement funds have been underway at least since June 27, and were not a last minute decision. In other words, the accessibility of the retirement funds had already been identified and shared with "appropriate officials" in the Executive branch, well *before* prominent Administration officials claimed that a veto of the debt limit would lead to default. The critical document signed by Secretary Rubin triggering the disinvestment was typed without a date, which was only filled in by hand on the 15th of November.

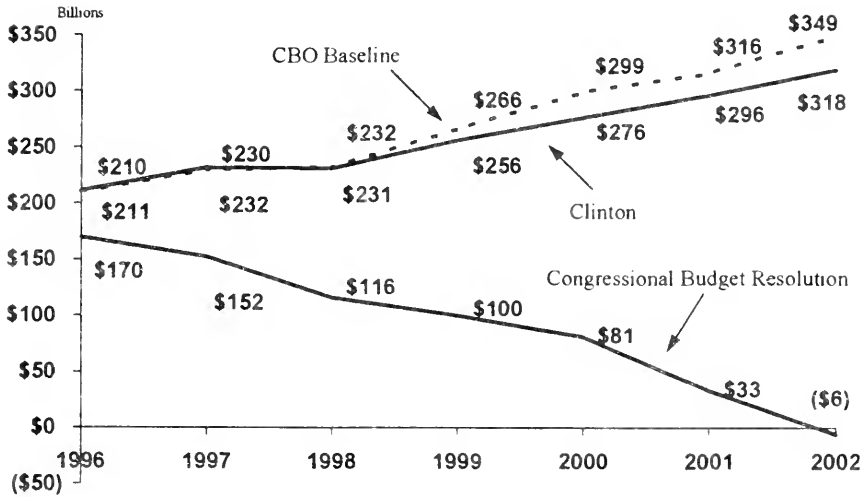
*The Clinton budget*

the entire controversy over the debt limit arises from the preference of the Clinton Administration for higher deficit spending and debt accumulation. This was made clear in the detailed budget submission made by President Clinton last February. Only after the Congress acted in producing balanced budget plans did Clinton attempt to cover himself by releasing a sketchy outline of what he called a 10 year balanced budget plan, but what in fact would have left \$200 billion deficits according to the Congressional Budget Office (CBO). A review of the official budget submission clearly shows how unimportant high deficit spending is to the Clinton Administration.

The levels of deficit spending would hardly be affected under the official February Clinton budget submission. As the graph below shows, the Clinton budget recommended deficits growing to a level of \$318 billion by 2002, with \$2 trillion added to the national debt over the same period.



## Deficit Spending Under the Congressional Budget Resolution vs. Clinton and the CBO Baseline



The official February budget submission is a useful guide to what the Clinton Administration would regard as an appropriate level of deficit spending in the absence of a public relations problem created by congressional actions to balance the budget. The upward trajectory of deficit spending under President Clinton's recommendation reflects the low priority this Administration has assigned to fiscal responsibility.

This section of this report is based on a JEC review of internal Treasury documents regarding what the Treasury describes as its "debt limit strategy." Many of the documents most relevant to this inquiry were heavily censored (redacted) in an attempt to withhold damaging information from Congress, the press, and the public. As in many other cases the withholding of information raises serious questions about what the Administration is attempting to conceal. The JEC inquiry has uncovered Treasury Department documents that reflect a methodical and coordinated Administration plan for a budget and debt limit standoff prepared many months before the confrontation actually occurred.

The budget impasse was sparked on November 13, 1995 with President Clinton's vetoes of continuing appropriations resolutions and debt limit increase legislation. While neither veto was critical, both occurred in an atmosphere of crisis generated by many warnings from Administration officials that a government default with catastrophic results would follow. Indeed, these Administration officials had carefully nurtured this default crisis for many weeks, using it to focus attention over a confrontation with Congress that might otherwise have been forgotten.

For example, according to a September 13, 1995, *L.A. Times* article, Secretary Rubin "warned that a fiscal disaster could occur unless the debt ceiling is raised by Nov. 15." A week later *The Sacramento Bee* reported that Secretary Rubin had claimed that unless the debt limit was raised, a default could result and "cause profound damage to our country." White House chief of staff Leon Panetta made an even more pointed allegation that the Republican position would "let the country go to hell and basically default."

These Administration statements regarding default were an attempt to scare the financial markets, mislead Congress and the public about the Treasury's financial position, and portray congressional Republicans as extremists. By focusing attention on default, the Administration raised a disagreement about legislation to the level of a confrontation over default of the U.S. government, with horrific consequences for the U.S. economy. The Administration strategy to resist congressional efforts to balance the budget by characterizing these efforts as extreme continues to this day.

As planned, the protracted budget impasse has served as a convenient platform for the President's reelection campaign. To date, the outcome of the Administration's strategy has been the one it sought: gridlock.

*Administration's default charade based on misleading statements*

The central problem with the Administration's repeated warnings that reaching the debt limit would result in a catastrophic default was that these assertions were disingenuous. As noted in a November 7 JEC report, there was never any real prospect of a default.

Although a complete response to a document request has yet to be made, the documents made available provide enough information to permit several conclusions. First, the use of retirement trust funds was not a last minute or snap decision borne of desperation. *Treasury documents establish that this option had been identified and considered as early as last June, at least 4 months before the decision was formally announced.* It is clear that the retirement funds were identified very early as a target of opportunity.

In a June 27, 1995 memo to Secretary Rubin, a political appointee listed as one preliminary option "Notifications to trust funds of potential actions." As the debt limit was approached this same memo specifies "Notice to Executive Director of Federal Employees Retirement system of upcoming inability to reinvest G-Fund," and "Notice to public trustees of Social Security and other trust funds of possible inability to invest receipts." *It is clear from these documents that use of the Social Security trust funds, as well as the retirement funds, was considered by Treasury to circumvent the debt limit as early as June, 1995.*

An August 25, 1995 memo to the Treasury General Counsel mentions a meeting with Justice Department attorneys on "the mechanics of investing and disinvesting trust fund receipts." A similar September 1, 1995 memo describes a meeting with "attorneys from the Department of Justice for briefing on various operational issues related to the investment/disinvestment of the various governmental trust funds."

From these documents it is clear that issues regarding use of the retirement trust funds to circumvent the debt limit were thoroughly examined several months before the Secretary's actions of November 15. The Treasury staff carefully prepared the Secretary and methodically planned the execution of his actions anticipated for announcement in November. At the same time that the Treasury Secretary and other high Administration officials kept these preparations private, they were publicly making inflammatory statements about how disagreement over the debt limit would trigger default. These public statements are contradicted by the meticulous planning undertaken to circumvent the debt limit far in advance. *Statements suggesting that inaction on the debt ceiling could trigger default were misleading, given the numerous ways to circumvent the debt limit identified by the Treasury staff. It is extremely difficult to believe that these spurious public statements were made without the belief that they were false.*

*A "Cynical Political Strategy:" planned gridlock*

President Clinton has recently accused his opponents of a "cynical political strategy" in connection with the budget impasse. The implication is that the impasse and government shutdown is a desired outcome of these opponents, rather than simply the result of Presidential vetoes reflecting disagreement between two branches of government. However, the Treasury documents indicate that the "debt limit strategy" was carefully designed as part of a larger overall Administration strategy.

The Administration debt limit strategy appears to have been a plan for a prolonged budget standoff in resistance to congressional efforts to balance the budget. A memo to Secretary Rubin dated June 27, 1995, includes a nine page attachment as "Outline of Debt Limit Strategy." This Treasury document outlines different scenarios defining the circumstances under which trust funds would be used to circumvent the debt limit. Obviously this Treasury document was an Administration action plan for a budget and debt limit stand off with Congress. Not only does the Treasury document prepare the Administration for a confrontation with Congress, perhaps more importantly, there is no indication that any compromise or accommodation with Congress was under consideration by the Administration.

Although this document was initially subject to extremely extensive redaction, it is also clear that the Administration's "debt limit strategy" was to be implemented in close coordination with other Administration offices outside of the Treasury Department. For example, heading IV of this document calls for "Close project management through phases." Under this heading are "Ongoing briefings and centralized messages" directed toward Administration officials, members of Congress, the media and the public.

Of the ten pages of this critical June 27 Treasury document, well over 95 percent had been redacted. The text of the cover memo was entirely redacted, as well as 6 other pages subjected to the same treatment. In other words, in 7 of the 10 pages the text had been entirely deleted. Only the Administration knows exactly why over 95 percent of its debt limit strategy was hidden from Congress, the press, and the public, but the magnitude of the redactions suggests a massive effort to prevent disclosure of relevant information. The complete text was finally revealed to House lawyers only after numerous requests.

This document contains no indication of any desire for a negotiated outcome avoiding a confrontation with Congress and a budget impasse. As "cynical political strategies" go, the private preparation of a "debt limit strategy" to finesse the debt limit, while publicly making deceptive statements about inaction on the debt limit would trigger default, is the most cynical possible. Moreover, the apparent references to top Administration officials in one other document indicate that this strategy was coordinated at the highest level of the Clinton White House.

#### *Long term damage to the administration's financial leadership*

As a result of the above actions, the Administration has seen a decline in respect by many market participants. As early as November 1995, the Economist Magazine labelled Secretary Rubin a "humbled prophet."<sup>71</sup> Doomsday, it notes, "is a great event." Therefore, "One does not simply reschedule it, therefore, without a good explanation." Despite the Secretary's explanations and further forecasts of doom following default after he disinvested the trust funds on November 15, 1995, "Financial markets reacted to the revised timing just as they had to the original one. They ignored it." The real threat, according to the article, was not the possibility of default, but rather "someday, the mountain of debt might actually have to be repaid."

Although Wall Streeters might be expected to make any disparaging comments anonymously, many did not. Despite Secretary Rubin's claims that we might default in November, Robert Pirie, Senior Managing Director of Bear Stearns stated, "everyone on Wall Street knew we wouldn't."<sup>72</sup> The day after the first "drop dead" date of November 15, 1995, Louis Crandall, a New York economist with Wrightson Associates and publisher of the Money Market Observer noted, "This has become farcical."<sup>73</sup> More recently, Secretary Rubin stated that we would surely default after March 1, 1996. A typical reaction was that of Joseph W. Duncan, Chief Economist at Dun & Bradstreet, "Having said it before and not having actually hit the wall, the market is saying, 'ho-hum'."<sup>74</sup> Although default would lead to a downgrading of U.S. debt securities, states Standard & Poor's executive managing director Henrick Kranenburg, the rating agency doesn't expect a default. Many share the view of Edward J. Fetner, president of the equity investment management firm of Lynch & Mayer that, "Some agreement will be reached or some new Rubin trick will be developed to further defer facing the music."

Those who remain anonymous are even more critical of the Secretary. This is in part due to Administration efforts to strong arm Wall Streeters into towing its line on the debt ceiling.<sup>75</sup> At a meeting with Treasury officials to discuss Administration tax proposals, "There was a subtle message that we [the Administration] need more help from you people [Wall Streeters] [on the debt limit]," according to an attendee who represents "one of Wall Street top investment banks." Others have been more direct. "Rubin is the most political secretary we've had in decades—perhaps ever. He's sacrificed some credibility in order to stay on the Clinton team."<sup>76</sup> Summing up Wall Street's reaction to the March 1, 1996 drop dead date, the Washington Post reports that it "was received in some parts of the financial community with slightly less skepticism than a prediction of a Super Bowl victory for the execrable New York Jets."<sup>77</sup>

#### CONCLUSIONS

The JEC investigation of the Treasury Department has uncovered what appears to be an Administration preparation for gridlock conceived by June, 1995, if not before. Treasury documents obtained by the JEC reveal that use of the trust funds, including the social security trust fund, to evade the debt limit, has been under consideration since early last summer. A meticulously prepared strategy was planned

<sup>71</sup> "Humbled Prophet," The Economist, November 18, 1995.

<sup>72</sup> "The Markets Don't Lie," The Standard, December 4, 1995, 10.

<sup>73</sup> "Rubin Spoke, but Wall Street Heard Wolf," Wash. Post, Jan. 24, 1996.

<sup>74</sup> "Rubin Spoke, but Wall Street Heard Wolf," Wash. Post, Jan. 24, 1996.

<sup>75</sup> "Treasury Tax Plan Irks Wall Street Executives," Wash. Post, 12/15/96.

<sup>76</sup> "The Markets Don't Lie," The Standard, Dec. 4, 1995, 10.

<sup>77</sup> "Rubin Spoke, but Wall Street Heard Wolf," Wash. Post, Jan. 24, 1996.

and coordinated with other Administration officials, based on the expectation of a prolonged budget stand-off with Congress, at least 4 months before the November vetoes. Moreover, the public statements by Administration officials that inaction on the debt limit would lead to default were misleading. As a result, the Administration's standing in the financial community has been severely diminished.

## Section 4: Congressional Response

### INTRODUCTION

Between June of 1940 and the present, the debt limit has been increased 77 times.<sup>78</sup> Yet today we are faced with a lack of clarification as to what actions the Secretary of Treasury may take when the debt ceiling constrains Treasury's ability to borrow. Indeed, there is some controversy over the role of the debt limit. The time seems appropriate to establish clear limits on how Congress' authority to borrow under Article I is to be administered by the executive branch.

The immediate concern is, of course, the disinvestment of CSRDF, as well as the disinvestment of the Thrift Savings Plan's government securities. Section II has discussed the legal issues involved in the Secretary's declaration of a debt suspension period of one year. However, given Secretary Rubin's action, Congress may wish to respond through the legislative arena. The purpose of this section is to provide an overview for Congress in considering such response.

#### *Response to disinvestment of the CSRDF*

One response to the disinvestment of the CSRDF, as embodied in H.R. 2621, which was introduced by Chairman Bill Archer and passed the House on December 14, 1995, is to not allow disinvestment of any trust funds if the primary purpose is to circumvent the debt ceiling rather than pay beneficiaries. It specifically repeals the disinvestment provisions which were used by the Secretary as discussed in Section II. Under H.R. 2621, obligations held by "covered trust funds" (which make up the bulk of the trust fund revenue) could be redeemed in order to make current payments to beneficiaries where these payments would not otherwise be paid due to the debt limit. In such a case, the Secretary could issue corresponding debt obligations to the public in order to obtain the cash needed to pay beneficiaries. Notification to Congress of the Secretary's intended action would be required.

Upon notification, the Comptroller General would be required to make a finding that the necessary requirements had been met and provide recommendations to each House as the Comptroller considers "necessary and appropriate."

Section II provides a discussion of the intent of the 1986 amendments to the CSRDF. The legislative history indicates that Congress intended to allow disinvestment in order to ensure payments to beneficiaries could be made when the debt limit was binding. This was in response to the 1985 Treasury actions to prematurely disinvest both Social Security and CSRDF securities in order to make room to sell marketable securities to raise the cash for benefit payments. The recent disinvestment of the CSRDF was made to circumvent the debt limit and raise cash to make general obligation payments. Passage of H.R. 2621 puts on record the House position that no trust fund should be used to generally circumvent the debt limit. Should it become law when at least one major issue regarding the debt limit would be settled.

Another question is should Congress specifically disallow the early disinvestment of trust funds such as occurred in 1985 in the case of Social Security? As an example, suppose a Social Security payment of \$25 billion was due on March 1 and that the Treasury was at the debt limit. A disinvestment of \$25 billion from the Social Security Trust Fund could be made on March 1, but Treasury could not disinvest \$25 billion on February 25 in order to sell marketable securities in the amount of \$25 billion which would settle on the March 1 payout date. One mechanism to accomplish this in an indirect fashion would be to prohibit the sale of marketable Treasury securities should a trust fund be disinvested.<sup>79</sup> This would effectively prohibit the disinvestment of trust funds by eliminating the incentive to do so.

<sup>78</sup>Budget of the United States Government, Historical Tables, Fiscal Year 1996, U.S. Government Printing Office, Wash. D.C., Table 7.3.

<sup>79</sup>Since the trust funds would have to be disinvested to make payments to beneficiaries if revenue to the fund is ever less than required payments to beneficiaries, the language would have to be crafted to allow disinvestment under these circumstances. Otherwise, the assets would have to be held into perpetuity.

### *Bright line debt limit*

The latter approach leads to a discussion of a bright line debt limit scenario. One aspect of the current situation has been the uncertainty of when Treasury might not be able to make interest payments or redeem obligations as these become due. As discussed in section III, much hue and cry of impending default was made as late October approached, then again as November 15 approached, and now the Secretary of Treasury is ringing alarm bells about March 1. The evidence is that there is not, under current statute, a bright line where the Congress is aware that if it does not increase the debt limit the Treasury will not be able to meet its financial obligations.

### *Options to avoid the debt limit*

There are several options that Treasury has used, and may use as the debt limit again becomes binding. These include the following:

(a) *Further disinvestment of the Civil Service Retirement Trust Fund.*—Section II contains a thorough discussion Treasury's ability to pursue this action. We have just discussed possible Congressional response in the context of H.R. 2621.

(b) *Disinvestment of other trust funds.*—In testimony before the House Banking and Financial Services on December 13, 1995, Secretary Rubin stated that he did not have authority to disinvest any other of the 189 trust funds. A General Accounting Office Report of 1985 stated, in response to the early disinvestment of the Social Security Trust Fund that occurred in 1985: "We conclude that, although some of the Secretary's actions appear in retrospect to have been in violation of the requirements of the Social Security Act, we cannot say that the Secretary acted unreasonably given the extraordinary situation in which he was operating.<sup>80</sup> Given the uncertainty with regard to how much disinvestment of Social Security and the other trust funds would be allowed, if any, in order to provide benefits, Congress may want to provide specific guidance.

The Secretary has disinvested that portion of the Thrift Savings Fund known as the "G Fund". This is the portion held in government securities. Because these securities mature on a daily basis, the amount that Treasury has disinvested has been determined by what is necessary to keep the debt at its limit. The amount the Secretary authorized for disinvestment was \$21.5 billion. This action was taken pursuant to a 1987 statute authorizing disinvestment of the fund. Even though there is language requiring the restoration of these funds along with foregone interest, the net result of disinvestment of this fund to pay general fund obligations is to make the fund less secure. If this were not the case, then the credits which replaced the government securities in the fund should be counted under the debt limit. In either case, Congress may wish to rethink the provision allowing the G Fund to be disinvested to make ordinary payments of the government.

(c) *Delaying Income Tax Refunds.*—There are approximately \$90 billion in income tax refunds. The Internal Revenue Code does not require Treasury to refund excess income tax payments until 45 days after the filing deadline. Even then, Treasury could further delay if it makes interest payments on the delayed payment. There are some macroeconomic problems with delaying refunds, for example, disposable income would be lower for the first and second quarters and this could result in a short term negative real GDP growth (recession). Congress may wish to prohibit the delay of income tax refunds if its purpose, or primary purpose, is to circumvent the constraints of the debt limit.

(d) *Federal Financing Bank Assets.*—At this time there are slightly more than \$83 billion in Federal Financing Bank (FFB) assets which are held by Treasury. Some of these assets might be securitized and either sold to the general public or to trust funds. The market might require some time to review the asset package and thus such an action might have to be taken with considerable lead time. In a letter to the Speaker of the House, Secretary Rubin has stated that \$9 billion of these assets can be sold to trust funds.<sup>81</sup> These include the obligations of the Postal Service and the Tennessee Valley Authority. It is questionable what other assets might be sold from the FFB and not become counted against the debt limit. Again, Congress may wish to either prohibit the sale of assets of the FFB if such action is to avoid the debt limit, or it may wish to

<sup>80</sup> Comptroller General of the United States, B-221077, December 5, 1985, GAO/HRD-86-45, Washington, D.C., Page 1.

<sup>81</sup> Letter from Secretary Robert Rubin to The Honorable Newt Gingrich, Speaker of the U.S. House of Representatives, January 22, 1996.

specify clearly what assets would count against the debt limit and under what circumstances.

(e) *Sale of Gold.*—Treasury has gold reserves valued at approximately \$100 billion at market rates. At present, the U.S. gold reserves are pledged as collateral for "gold certificate" loans from the Federal Reserve. This gold, however, is valued at the statutory rate of \$42.22 per ounce. Treasury would have to raise about \$11 billion in net cash to pay the Federal Reserve for the certificates, but this would net cash of more than \$80 billion. However, as one Wall Street analyst put it: "This is obviously a far-fetched scenario. Dumping that much gold on the open market is clearly out of the question, both because it would be disruptive and because the Treasury would be undercutting itself by swamping the market."<sup>82</sup> There might be some central bank that would be willing to swap some of their dollar reserves for gold in an off-market transaction, but the net cash gain would be much less than the \$80 billion. 31 U.S.C. § 5116 currently provides for the Secretary of the Treasury to sell gold to the market to reduce the debt. This language might be interpreted to allow selling gold to reduce the debt in order to provide room to sell more debt. If Congress does not wish to allow the sale of the gold stock in order to avoid adding to the debt, it should enact specific legislation prohibiting such action.

(f) *Use of Foreign Exchange Assets.*—Prior to the existence of the G Fund in the Thrift Savings Plan, Treasury regularly failed to fully invest the Treasury securities held in the Exchange Stabilization Fund when the debt limit became binding. This occurred several times, including, according to the Department of Treasury, in 1980, 1984, 1985, 1986, and 1989. The language of the Exchange Stabilization Act would have to be read broadly to allow this, but the precedent exists.<sup>83</sup> Secretary Rubin has already announced his intention to disinvest the Exchange Stabilization Fund of \$3.5 billion U.S. Treasury securities.

There are three ways Treasury could use the approximately \$10 billion worth of Japanese yen and \$6 billion worth of Deutsche marks it has in the Exchange Stabilization Fund: (1) sell them on the open market; (2) sell them directly to other central banks; and (3) swap them with the Fed under a warehousing arrangement. It is unlikely that Treasury would dump these holdings on the market, as foreign currency markets can be quite volatile. There is ample precedent for central bank currency swaps. The Bank of Japan is probably holding more dollars than it would like, and the Bundesbank and the U.S. entered into off market trades in both 1991 and 1992. The problem here would be the effect on perception of the dollar's strength by currency traders. The third option avoids market problems, but would make the Fed nervous. Under a warehousing arrangement, the Treasury would undertake a long-term repurchase agreement with the Fed, selling foreign currency to the Fed and buying it back on a forward basis.

If the Congress wishes to require that the Exchange Stabilization Fund be used solely for its titled purpose, then it should add language specifically stating this intent.

While the ability of Treasury to legally use these methods of creating a gray area of default around the debt ceiling ranges from legally certain to highly questionable, there are political and market constraints that also come into play. For example, while it is clearly legal for Treasury to hold income tax refunds until 45 days after the due date of the return, economic conditions may preclude such an action. Should taxpayers become aware of such a strategy, political repercussions may be such that this avenue of preserving cash might not be useable.

Congress could create more of a clear line of when the debt limit is being reached in at least two ways. One is to limit the legal options of the Secretary of Treasury to continue to issue debt once the debt limit is reached and/or to limit the sale or exchange of assets to raise cash. The former would include disallowing disinvestment or underinvestment of trust funds, as discussed above. The latter would be to put into effect by specific legislation precluding, for example, the sale or transfer of any Treasury assets, including the Federal Financing Bank. A problem with this approach is there may be good reason to allow Treasury to alter its portfolio of assets through purchase, sale, and exchange. A less restrictive policy might allow the sale of assets under certain conditions, or preclude the sale only under certain conditions. The difficulty here is the inability of Congress to foresee what conditions may appear in the future, and what innovative ways the Treasury might interpret

<sup>82</sup> "Debt Ceiling Preview-Part II: Alternative Sources of Cash," *The Money Market Observer*, Wrightson Associates, New York, NY, September 15, 1995, p. 4.

<sup>83</sup> 31 U.S.C. § 5302.

the statute. Quite possibly, the latter was the case with the 1986 amendments to CSRDF. A possible solution is to disallow sales, exchanges, or other transferences, the primary purpose of which is to circumvent the debt limit. This requires careful drafting in order to allow normal transactions while at the same time precluding actions that would infringe upon Congress' authority over the issuance of debt.

#### *Definition of debt subject to limit*

A second option would be to create a more inclusive definition of what constitutes debt subject to limit under Title 31. Current law captures the vast majority of public debt. Of the total public debt outstanding of \$4.988 trillion, \$4.899 trillion is subject to the debt limit under Title 31. The problem is that the debt created through disinvestment of the trust funds may not qualify as debt under the current definition. Treasury's position clearly is that the \$75 billion of debt it created through the disinvestment and underinvestment of the CSRDF and the G fund does not count against the limit.<sup>84</sup> The Treasury is eventually required to reinvest these credits and restore any foregone interest. In that sense the credits created through the disinvestment and under investment process must eventually be paid along with the interest that is accruing on these credits. It certainly could be within the realm of reasonableness to count such obligations under the debt limit.

The negative to this is it would not be possible to disinvest trust funds during a period where the debt limit was binding even to cover the situations where a trust fund might be disinvested three days early in order to allow the sale of Treasury securities which would settle in time to make payments to beneficiaries. However, one might also argue that the reason for a binding debt limit is precisely to foreclose options.

#### *Enforcement*

An issue which arises, regardless of which method of dealing with prohibiting unauthorized debt issuance by the executive branch, is the enforcement mechanism that ought to be provided. Should ordinary citizens have standing to sue for grievance or to pursue temporary restraining orders? Should members of Congress have standing? Whatever enforcement mechanism that is chosen should serve to swiftly correct a violation. Debt limit crises on average last for less than a month. Any mechanism which would take longer than a week or two to resolve would be relatively ineffective.

#### *Flexibility*

Another issue is the effect of creating a "bright line" debt limit. There may be some value in allowing enough flexibility to the Secretary to avoid a certain "default," defined as failure to make interest payments on outstanding debt. One way of doing this is to allow the Secretary the authority to manage the cash in times of a debt limit crisis. This could be done subject to priorities established by the President in his role as chief executive officer. In this way, as the options which have been used, or have suggested could be used, to allow the Secretary to continue to issue debt once the debt limit is reached are closed off, the "default" threat is diminished. Most businesses and households would manage their cash when their credit limit has been reached in such a way as to pay their priority bills before their other bills. H.R. 2098 would provide this flexibility.

Legislation such as H.R. 2098, which provides the Secretary with cash management authority brings up two obvious issues. First is whether the executive branch already has this authority. Second, is whether this may provide too much power to the President. With regard to the first, as with most of the debt ceiling issues that are discussed in this report, the area is grey. An argument can be made that the president already has such authority. The basis for this position is that when faced with conflicting statutory requirements, the President is free to resolve the conflict in a manner that in his judgment best serves the national interest. Thus, if the debt limit statute requires him to stay within the debt ceiling and the Anti-Impoundment Act requires him to make payments, he may choose which payments to delay. On the other hand, a 1985 Senate Report states that Treasury is not authorized to decide which payments to make because all appropriations bills stand equal, and thus Treasury must make payments on a first-in, first-out basis.<sup>85</sup> This is the position that Secretary Rubin has taken in both written and oral communication with this Congress. If the current administration takes the position that it may not prioritize

<sup>84</sup> This includes the disinvestment of the CSRDF of \$39.8 billion authorized on November 15, disinvestment of the G Fund of \$21.5 billion authorized on November 15, and underinvestment of the \$14.5 billion interest payment due the CSRDF on December 29.

<sup>85</sup> "Increase of Permanent Public Debt Limit," Senate Finance Committee Report 99-144, 99th Congress, September 26, 1985.

payments, then regardless of legislative options to the contrary, the result will be payments on a first-in, first-out basis should the debt limit constrain the government's ability to honor obligations.

The second issue is whether this provides too much power to the executive branch. Obviously the question of "too much" is a political judgement. However, those who believe that Treasury already has such power should not be concerned, as H.R. 2098 is merely clarifying the existing situation. Given the current confusion, an administration could probably assert the power if it wanted to do so. Second, the executive branch would be able to neither make payments not authorized already by Congress, nor delay ad infinitum payments, otherwise it would be impounding funds. A third point is that the alternative, first-in, first-out results in a cash management strategy which is inferior to what is possible if the chief financial officer is able to make payments according to the priorities of the chief executive officer. Of course, it is possible for the executive branch to choose a cash management strategy which is inferior to first-in, first-out. The responsibility for such a poor strategy, would of course, fall on the executive branch.

In 1985, Congress allowed the Federal Financing Bank to issue \$15 billion in securities which did not count against the debt limit. While these securities have permanently remained outside the limit, Congress might provide flexibility by allowing some debt issuance to not count against the limit on a temporary basis when the debt limit has become a binding constraint. An example would be to allow the sale of securities, the revenue from which is used to make payments to beneficiaries, to be exempt from the debt limit for a brief period or until trust fund securities are disinvested in a like amount. This would be to fit the situation described above, where the disinvestment of Social Security Trust Fund assets occurs on the date the payments must be issued a few days earlier to allow for a timely settlement date. This would result in a different timing of debt issuance, but would not result in greater total debt.

#### *Debt ceiling and the budget*

A final point is how the debt ceiling fits into the appropriations process. Secretary Rubin has argued, citing a Congressional Budget Office Study, that the debt limit is an anachronism. It should either be abandoned or raised without question because the debt increases necessary to fund the government are the arithmetic result of prior spending and tax decisions of the Congress. Thus, it is unfair to withhold debt authority from the executive branch when Congress makes the spending decision.

While the above argument has appeal at first blush, one needs to realize that the current Congress makes the decision about what the pattern of debt will be in the future. The current Congress, however, no longer directly controls the amount of spending that will occur in the near future. This is because of the growth of entitlement programs. In 1955, nearly 9/10 of the federal budget was discretionary programs. Today only about 1/3 of the budget is discretionary. Congress can only alter the spending pattern to match its wishes with regard to the time-path of debt by amending statutes which authorize the entitlement programs. Although it is true that through budget reconciliation Congress does authorize mandatory spending, and can thus make changes, Congress recently offered such legislation under the guise of the Balanced Budget Act of 1995. This legislation was vetoed by the President. Unlike an appropriations bill, which if vetoed results in no spending and no additional debt, a veto of a reconciliation bill, or changes in mandatory spending through new authorizing legislation, results in continued spending under the old program. The result is that, in the case of mandatory spending, Congress cannot effect a change and alter the time path of debt without the consent of the President, unless it has a two-thirds majority to override the President's veto.

Due to the inextricable link between the entitlement programs and the future debt of the federal government, there is an inextricable link between the budget bills and the debt limit. To argue that the debt limit is not to be tied into the budget process is to miss this vital point. Congress' last hold on its authority to borrow money under Article 1, Section 8 is the debt limit. Because the amount of debt that will be needed in the future is directly related to the amount of spending that will occur, the authority to borrow under Section 8 is tied directly to Congress' authority to spend under Article 1, Section 9. It is quite appropriate to link budget bills to debt limit increases.

Historically, this has been the case. Indeed, with the decrease in the share of the budget that is accounted for by discretionary spending, the linkage has become ever closer. In 1993 H.R. 2264 raised the debt limit in the Omnibus Budget Reconciliation Act, which included a tax increase of \$250 billion. In 1990, H.R. the debt limit increase incorporated the Omnibus Reconciliation Act of 1990, which also included



large tax increases. In 1987 and 1985 the debt limit increases were included in the debate over Gramm-Rudman I and II. In recent years, a clean permanent increase in the debt limit simply does not occur.

One obvious solution to this is to reinstate the ability of Congress to substantially control the appropriations process on a year-to-year basis. Several proposals exist for altering the budget process. Representative Steve Largent (R-OK), is leading a task force that will introduce a budget process reform package this Congress. This Budget Process Reform Task Force should consider the growth of the non-discretionary part of the budget and its affect on the debt as it prepares its legislation.

#### CONCLUSIONS

The Task Force has found that the actions of the Secretary of the Treasury have been improvident and have raised questions whether he attempted to affect market responses in order to alter the position of Congress on budget legislation. His designation of a debt suspension period of initially twelve months, extended to fourteen months, was not within the bounds and intent of the Civil Service Retirement and Disability Trust Fund Act. The result of this designation was the creation of additional debt that was not approved by Congress and thus threatens the constitutional separation of power over the borrowing authority of the United States. Legislation to clarify what actions can be taken by the Secretary of Treasury during the time that the debt limit is binding should be enacted. In particular, the disinvestment of trust funds should be limited to funding payments to beneficiaries and the cash management responsibility of the Secretary should be established. Finally budget process reform should be undertaken with priority given to Congress' enumerated power over the spending and borrowing of the United States.

HOUSE OF REPRESENTATIVES,  
OFFICE OF THE SPEAKER,  
*Washington, DC, November 30, 1995.*

Hon. NICK SMITH,  
*Longworth House Office Building,*  
*Washington, DC.*

DEAR MR. SMITH: I would like you to chair a task force to review the Administration's looting of key retirement trust funds, increasing America's actual debt by \$61 billion without the consent of Congress. This justifies a thorough investigation. Many people have serious concerns about the use of these trust funds—without congressional approval—for general government spending.

I appreciate your leadership on issues involving the debt limit as we work to achieve a balanced budget. Your research and issue briefings have been very helpful to the leadership and Republican members.

Please advise me of your recommendations for membership on this task force. I hope you will assist the Majority Leader as he coordinates hearings on this issue, and I look forward to seeing the findings of the task force as you investigate the disinvestment and under-investment of government trust funds.

Your friend,

NEWT GINGRICH,  
*Speaker of the House.*

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DECEMBER 29, 1995.

Hon. NEWT GINGRICH,  
*Speaker, House of Representatives, Capitol,*  
*Washington, DC.*

Hon. ROBERT DOLE,  
*Majority Leader, U.S. Senate,*  
*Washington, DC.*

DEAR MR. SPEAKER AND MAJORITY LEADER DOLE: We are concerned about a pattern of actions which infringes upon congressional authority over borrowing and spending. This pattern includes unauthorized use of the Exchange Stabilization Fund to defend the Mexican peso, misleading statements regarding default, and excessive use of the disinvestment authority under the Civil Service Retirement Trust Fund Act.

Specifically, we are concerned with the decision by the Administration on November 15 to disinvest the Civil Service Retirement and Disability Trust Fund (CSRDF). The way for this action was paved by an opinion of the Office of Legal Counsel advising that 5 U.S.C. § 8348 should be interpreted to allow the Secretary of the Treas-

ury to make a prognostication of how long into the future he may face an unraised debt limit and then to disinvest immediately the full amount of all prospective future payments from the fund.

We believe that the OLC opinion is clearly wrong. The statute plainly envisions that the Secretary determine when a "debt issuance suspension period" has come into existence and then authorizes the Secretary to disinvest the amount of monthly payments as long as the period lasts *and as the payments become due*. Although the OLC opinion acknowledges that this is a "plausible" interpretation, it is in fact the only construction that can be squared with the statutory language itself.

The statute specifically contemplates that disinvestment occur only when necessary to avoid exceeding the debt limit. Immediate disinvestment of amounts equal to aggregate future payments before they are due does not meet this standard. Moreover, under the definition of "debt issuance suspension period," the contingency that the Secretary is called on to assess is the ongoing likelihood that certain further debt issuance will breach the *then-current* debt ceiling—which is essentially a computational judgment. Nothing in the language suggests that the Secretary is authorized to assess future contingencies about *future debt ceiling changes*—when they might occur and by how much—judgments that are inherently broadly subjective and unknowable. Finally, OLC's opinion is grossly inconsistent with the purpose of the statute. That purpose is clearly to protect the CSRDF. Under OLC's interpretation, however, the Secretary is allowed to take action that directly threatens the fund and treats it as a piggy bank designed solely to allow an administration to circumvent the debt limit. This is preposterous.

Even under OLC's opinion, we believe that the disinvestment decision goes too far. It has all the markings of being result-oriented and, hence, arbitrary and capricious.

Secretary Rubin has used an interpretation of the 1986 law that appears to be contrary to the whole purpose of the statute. The resulting action could actually weaken the trust fund and in addition it disregards congressional control over borrowing. Our concern is that the Secretary will continue unabated in his actions to usurp the enumerated powers of Congress granted under Article I, sections 8 and 9 of the U.S. Constitution.

We have spoken to Congressman Nick Smith and other members of the Task Force on the Debt Limit and Misuse of the Trust Funds. We recommended to them the close examination of the Secretary's actions with regard to the debt limit in the context of the pattern of behavior mentioned above. This would include detailed congressional questioning of Mr. Rubin on what he is considering in the event the debt limit is not increased by the end of January.

We also recommend that legislation be enacted which produces a bright line barrier with regard to what the executive branch is authorized to do under the debt ceiling legislation (Second Liberty Bond Act). Another option would be to include all obligations of the federal government under the debt limit. The task force and other members will no doubt consider others.

We hope the Congress takes strong action to enforce the debt ceiling and prevent this kind of cynical legerdemain.

Sincerely,

WILLIAM BARR.

EDWIN MEESE.

*Former Attorneys General of the  
United States.*

JANUARY 4, 1996.

Hon. ROBERT E. RUBIN,  
*Secretary of the Treasury, Department of the Treasury,  
Washington, DC.*

DEAR MR. SECRETARY: As former Secretaries of the Treasury, we understand the pressures you confront as a statutory debt limit approaches. During our respective tenures, we were also compelled to take temporary actions in order to preserve the credit of the United States.

It now appears that by the beginning of February you will be required to take broader actions, including perhaps extraordinary and unprecedented measures, to avoid the effect of the statutory debt limit. This will be a fateful step, and one that could, in our view, raise serious legal, perhaps even constitutional issues.

We believe this moment should be avoided at all costs. As the principal financial officer of the United States Government, you have great credibility within the current Administration. We urge you to use this influence to move the nation toward

an agreement on a balanced budget in seven years. Not only would such an agreement be in this country's long-term interests, but it will make the unprecedented steps you are contemplating unnecessary.

Very truly yours,

JAMES A. BAKER III.  
NICHOLAS F. BRADY.  
DONALD T. REGAN.

## TASK FORCE ON THE DEBT LIMIT AND THE MISUSE OF TRUST FUNDS

### ACTIVITIES

December 5—Announcement of Formation of Task Force at Press Conference.  
December 13—House Banking Committee Hearing with Secretary Rubin.  
December 20—Task Force Legal Expert Roundtable with Former Attorney General and Treasury Officials.  
January 5—Task Force Meeting with Undersecretary John Hawke and Treasury Officials.  
January 24—JEC Presentation of Treasury Documents to Staff and Members.  
February 1—JEC Presentation of Treasury Documents to Public.  
February 1—Task Force Meeting to Discuss Draft of Report.  
February 8—House Banking Committee Hearing with Secretary Rubin.  
February 12—Release of Task Force Report at Press Conference.

Mr. SMITH of Michigan. And that my original testimony be also included in the record.

Mr. HERGER. Without objection, they shall be submitted.

[The prepared statement of Nick Smith follows:]

### PREPARED STATEMENT OF HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Chairman Kasich, thank you for allowing me to testify before this outstanding committee this morning. I am glad to be able to participate in this very important process of streamlining the federal budget process. Along with several other members, I have been working on legislation with the House Subcommittee on Government Management and I hope that we can bring some needed, common sense reforms to this process.

My contribution to this effort focuses on restoring congressional control over borrowing by the federal government under Article 1, Section 8, of the Constitution. Regaining control over debt issuance will allow Congress to move closer to restoring control over the authority to spend, under Article I, Section 9. As we learned during last fall and winter, Congress' ability to control federal borrowing and spending is much weaker than we had previously thought.

As the chairman of the Speaker's Task Force on the Debt Limit, I released a report which discussed the need to clarify where the executive branch's authority to borrow money ended. I ask that the task force report be printed in the record.

As our report stated, "there is not, under current statute, a bright line where the Congress is aware that if it does not increase the debt limit the Treasury will not be able to meet its financial obligations." We noted that Congress could take steps to remedy this problem by creating "more of a clear line of when the debt limit is being reached in at least two ways." These included limiting the ability of the executive branch to disinvest and underinvest government trust funds which has the effect of changing the debt subject to limit and also limiting the ability of the executive branch to raise cash by selling assets. As the report summarized the situation, Congress could "disallow sales, exchanges and other transference, the primary purpose of which is to circumvent the debt limit."

Subsequently, I introduced legislation which would accomplish this as H.R. 2897, which is now incorporated in an omnibus reform bill that Mr. Horn is shepherding. H.R. 2897 would, in particular:

#### 1. PROHIBIT THE UNDERINVESTMENT AND DISINVESTMENT OF GOVERNMENT TRUST FUNDS FOR PURPOSE OF EVADING THE DEBT CEILING

Currently, the assets in government trust funds, such as the Medicare Trust Funds and the Social Security Trust Fund are in the form of government accounting securities. The cash surpluses of the trust funds are used for current spending, and government accounting securities are issued in their stead. These securities count against the debt ceiling. However, through some clever accounting, it is possible

(though legally questionable), to not invest these surpluses, or to extinguish the government accounting securities and replace them with credits in the trust fund which technically do not count towards the debt subject to limit. In this way, the government can make room under the debt limit to issue marketable debt and raise cash in order to continue to spend money. Because the amounts not invested or removed are later restored, the overall amount of debt is greater than it otherwise would have been.

My proposal would prohibit both of these practices when done to circumvent the debt ceiling.

## 2. PROHIBIT THE SALE OF FEDERAL ASSETS FOR PURPOSES OF EVADING THE FEDERAL DEBT LIMIT

Further, the government has myriad assets which might be sold when the debt limit becomes binding. Examples include oil reserves and gold. If these could be sold to circumvent the debt limit the assets would be denied to future generations to make it easier to pay our bills. This would have the same effect as more federal borrowing would—leaving our children with a lower stock of capital assets.

## 3. EXPLICITLY ALLOW THE EXECUTIVE BRANCH TO DELAY PAYMENTS WHEN THE FEDERAL DEBT IS AT THE CEILING TO AVOID DEFAULTING ON OTHERS

I and others believe that the President, under his power to see that the laws be faithfully executed, may choose which bills to pay when there is not enough borrowing authority to pay them all. The administration has taken the position that they do not have this authority and that all bills must be paid in the order presented. As a consequence, if we reached the debt ceiling and the Treasury begins to run low on cash there would be no guarantee that senior citizens would continue to receive their Social Security and that similarly vital services would not stop. My proposal would explicitly grant the administration this power so that the next time we hit the debt ceiling, seniors won't have to worry about their social security checks. While some may argue that this gives too much authority to the executive branch, it actually gives authority over borrowing back to the Congress. Threats of default or withholding of Social Security checks could not be used to force Congress to pass increases in the debt limit to justify the spending desires of the executive branch. Another key point is that the executive branch would not be given authority to spend anything that had not been appropriated by the Congress, it only allows the President as the chief financial officer to set a priority of payment of bills during the special circumstance of a binding debt limit.

### *Conclusion*

I would urge the committee to include this or similar legislation in any reform of the budget process. This will ensure that Congress retains its constitutional control over the bottom line: the amount of borrowing which finances our perennial budget deficits.

Mr. HERGER. Mr. CRAPO.

## STATEMENT OF HON. MICHAEL D. CRAPO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mr. CRAPO. Thank you, Mr. Chairman. I appreciate the opportunity to testify before you today, and I, too, would like to shorten my oral testimony and present my formal written testimony, if that is acceptable.

I have a lot of budget issues that I would love to talk to you about, but I am going to limit my discussion today to one, and it is one that I think that the committee is probably already very familiar with because the lock box reform which I want to talk with you about today has already passed the House of Representatives three separate times. The lowest number of votes that it has received each time is 329. It has received as high as 373 votes in the House, as we have reached this issue each time, only to be stalled in the Senate or to be stalled in conference between the House and the Senate as we have tried to address budget reforms. And I encourage this committee, as it reviews the budget process and pro-

poses any necessary changes to the budget process that can help us be more effective around here, to include once again the lock box measure and to help us continue fighting for it.

I appreciated seeing Mr. Stenholm here because I think this is starting to look like the balanced budget amendment fight. It is a tremendous idea. But it seems to be one that we are going to have to push and push and push and push and push until we get Congress to finally move forward with it.

Just quickly, to remind you of the lock box, when I first came to Congress, I had an experience which with some unhappiness I saw our freshmen experience again when they first got here this year, and that is, I went to the floor and voted on and listened to the debate carefully on amendment after amendment to try to cut the spending in our Federal budget. And as I heard the debate on these amendments, each time it was strongly debated in terms of how we needed to control the spending in the Federal budget. And that was the reason for the necessary reduction or elimination of particular program money.

It was about 7 or 8 months into my first year here that I figured out the budget process well enough to realize that that was not what was happening with those votes. In fact, as we voted on any particular program or project to cut the spending, all that happened was that particular program or project was cut or reduced, but the allocation for that funding in that particular appropriation bill was not reduced. And what happened is that when the conference committees met, the unallocated funds were then simply, in almost every case, re-spent. And so it was a false debate, a false statement to the American people that we were debating over reducing Federal spending. We were simply reallocating. In fact, we were allowing a process to continue where the reallocation took place in a conference meeting which was not then fully reviewed by hearings. Projects were put into spending many of which I don't think would have survived the light of day of an open hearing process and an evaluation, and there was very limited debate on the final result that came out in a conference bill that got a short debate and a vote being wrapped up in the rest of the conference bill. And so the process, I felt, was very inappropriate, and we were quickly able to put together a bipartisan group to propose a lock box bill in which the essence of the bill is that when any program, project, or part of the budget is reduced by an amending vote on the floor of the House, that money will go into a lock box. And then when the conference committees meet, they must come out of conference with an amount in the lock box equal to—the latest version of the bill says an amount equal to the average between the House and the Senate versions.

I think that this is critical legislation that will make it so that when we debate on the floor, we will actually be able to honestly state that we are debating over reducing the budget when we have these votes to cut.

With that, Mr. Chairman, I would be glad to respond to any questions you may have.

[The prepared statement of Michael Crapo follows:]

PREPARED STATEMENT OF HON. MICHAEL D. CRAPO, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF IDAHO

Allow me to begin by thanking you for the opportunity to address this Committee on the Lock Box issue. The most important issue in Washington, DC today is budget reform. It is the driver of the engine of what types of changes need to be made. As I listen to the changes being heard here today, many of these proposals being considered are the kind that need to be made to our system. The Lock Box language has been around for about two years or more. Our efforts have passed this legislation through the House on three separate occasions with very sizeable bipartisan majorities. On August 2, 1995 the House overwhelming passed the Deficit Reduction Lock-Box amendment to the Labor HHS Appropriations Bill (H.R. 2127) by a vote of 373-52. On September 13, 1995 the House again passed the Lock-Box legislation as a free standing bill (H.R. 1162) on September 13, 1995 by another overwhelming bi-partisan vote of 364-59. On March 7, 1996, Lock Box legislation was again passed as an amendment to the Balanced Budget Downpayment Act II (H.R. 3019) by a vote of 329-89. These votes have made a bold statement that Deficit Reduction Lock-box is of the utmost importance to this budget conscious Congress. Although this legislation has been passed by vast bi-partisan majorities in the House, it has unfortunately been stalled in the Senate or attached to a bill that was filibustered.

The Lock Box places control on the reallocation of monies that have received cuts in their spending levels. The following is a short summary of how I became aware of this concept.

A few years ago I was on the floor of the House when the "superconducting supercollider" debate was being heard. One Member of Congress was telling another Member of Congress about his inconsistencies in supporting a cut in a previous bill, and not supporting the cut currently being discussed on the floor. The Member pointed out the inconsistencies in the other's voting patterns. The Member being criticized replied by telling his colleague that if he voted to eliminate the debated fund, that not a single dollar of would be used to reduce federal spending and that the cut in money would be shifted into other spending.

As I sat listening to the debate, my ears perked. This was not my understanding of how this process worked. And so, after months of research, inquiries and conversations with budget experts, I found out how what was actually happening. I found that what the two gentlemen on the floor were debating was exactly what was happening and what was exactly wrong with our budget and spending cuts processes.

Once the general budget is set, the 13 appropriating committees spend their allocated piece of the budget dollars. If we reduce, cut or modify the spending on any of those bills, the spending is not cut from the budget. In actuality, these funds are simply not allocated. They have not left the budget. We simply change the allocation from being allocated to one particular project to not being allocated at all. The funds eventually are reallocated in the conference committee and spent somewhere else.

The concept of the Lock Box proposal provides that when we cut or reduce spending, the money that is being cut goes into a fund ("Lock Box") and then pours into a deficit reduction account. When this proposal made its debut on the House Floor, we faced serious and strong opposition, and continue to face opposition, from those who would prefer to see the ability to shift money around and keep the system "fluid".

Argument can be made that once we set the major budget, we should be able to live within the parameters of that budget and that all funds allocated in that budget should be spent. However, if we have such a system, we should be honest with the American people and when we vote to cut spending on the superconducting supercollider or anything else, we should tell the American people that we are not cutting this money in order to save spending, we are not reducing the deficit and we are not addressing budgetary needs. Instead, we are simply saying this item does not have the priority to justify our spending and we are going to shift it to some other spending.

The Lock Box principle takes it one step further and says that, consistent with our rhetoric when debating these measures, the spending will actually go into deficit reduction.

The mechanism for Lock Box is very simple. As the bills work their way through the House and the Senate, various accounts are kept. However, the Lock Box concept consists of taking an average between the two levels of the Senate and the House versions, and pouring them into the Lock Box. In conference, the appropriators have the flexibility across their budget authority, across all 13 subcommittees, to find ways to find those savings. They are required, however, to find those savings in the budget.

As Lock Box was initially drafted, you would actually have the reductions within the specific appropriations bill in which the vote took place. That limited the ability to shift around and to negotiate with the Senate on various matters.

In compromise with the appropriators, we have re-drafted the language so they now have the ability across appropriations bills to negotiate across all 13 of the discretionary spending bills. They do not have the discretion to go into entitlements.

Right now, the one item of discretion that they do not have is that somewhere in the discretionary budget they have to find the savings that we voted for. If they cannot do that, then we have limited their discretion because then the money does go into deficit reduction.

As the committee considers budget reform, I urge you to again consider the ability of the Deficit Reduction Lock Box to assist in reaching this committee's and this Congress' goal of balancing the budget and reducing the deficit.

Thank you.

Mr. HERGER. Thank you, Mr. Crapo.

Are there any questions from any of our members? Mr. Largent?

Mr. LARGENT. Mike, I would like to ask you, on the pragmatic level, let's say, for example, that a lock box is in effect and, the House and the Senate have agreed with the budget resolution on the 602 allocation for discretionary spending. Then the appropriation process begins, and we put into a lock box some sum of money from one of the 13 appropriation bills in the House. Thus lowering the 602(A) number—not necessarily the 602(B), but the 602(A) would come down—presumably the 602(B) would come down as well.

Mr. CRAPO. Yes.

Mr. LARGENT. Then what happens when this goes to conference? The Senate, for example, doesn't have the same lock box or doesn't pass the same lock box number, and then it goes to conference on this appropriation bill. How does all that work out?

Mr. CRAPO. You have asked very good questions, and the details of how this works are one of the things we have worked on very carefully, because the appropriators had a lot of concerns about this because they, and I think with some justification, said that it would significantly reduce their discretion in terms of how to allocate the funding that was properly allocated in the budget resolution.

The way we have approached this is that when the House or the Senate votes that certain spending was not needed, if the person bringing the motion feels that it is just the program that is wrong and that the money needs to stay in the budget process to be re-allocated somewhere else, they can say that right in the amendment. This does not prohibit that. So the first decision is literally made by the person bringing the amendment. But if the amender says I think this can be saved for deficit reduction, then they don't need to say that because the lock box would automatically cause that to happen.

When it goes into the conference committee between the House and the Senate, presumably there will be different amounts; and to give you an example, let's say the House cuts \$100 million and the Senate cuts \$50 million out of a particular appropriation bill. The agreed amount that the statute would require would be \$75 million, so they must come out of—and I have looked at it in different ways. It could be done in different ways. You could say you have to go to the lower of the two. You could average the two or whatever. The latest version averages the two and says that the

House and the Senate must come out with a \$75 million reduction. It does not say that they have—and this is a concession to the appropriations process. It does not say that they have to take it out of that specific program. In fact, it even gives the appropriators the flexibility to re-fund the very program that was just cut, but they must find those reductions somewhere in the allocation.

It even allows the Appropriations Committee to redo their allocations and allocate it to other appropriations bills if they so choose. In other words, they have the literal ability to look across the entire 13 appropriations bills and see where they would like to reallocate it, but they must find that \$75 million worth of cuts somewhere, and they must come out of conference with that in the lock box.

Did I answer your question?

Mr. LARGENT. Yes, you did. I have become more skeptical the longer I am here in Washington. We have a perfect example of what took place during the budget process where—during the appropriating process the House decided in the defense appropriation bill that we didn't want to fund a third submarine, but we were going to fund the B-2. And then the Senate decided they were not going to fund the B-2, but they were going to fund the third submarine. And then they go to conference, and we ended up with both.

Mr. CRAPO. With both.

Mr. LARGENT. So that is just one of the inside-the-game games that is played.

What would happen, for example, if we vote on an appropriation bill and put into the lock box on appropriation bill X \$75 million and the Senate sees what we have done over here, because the spending bills start over here, and they say, okay, they have got \$75 million in their lock box, let's just increase our spending \$75 million, so that when it goes to conference we have got \$75 million more than the initial 602(B) target. They have got \$75 million less than the initial target. So that when we go to conference we will end up right where we wanted to be.

Mr. CRAPO. There is the potential for a little bit of that type of gaming the system to take place, but you must remember that the Senate is also operating with budget allocations; and if they are going to increase it by \$75 million, they are going to have to take it from somewhere. And in this example, the best that the Senate could do in that case would be to make zero cuts, which means that they would average between the House 75 and their 0, and we would still get a net \$37.5 million of reductions. And no matter how they twist it or try to game the system, when the end came, the bill would have to have \$37.5 million in a lock box that would go into deficit reduction.

Now, that doesn't mean that they couldn't in the specific program still end up fully funding both the submarine and the airplane, but they would have to take that \$37.5 million out of somewhere in their budget. And that was the concession we made in the earlier negotiations.

Previous versions of the bill required the cuts to stay in the same budget, but in order to acknowledge I think to a certain extent a valid comment by the appropriations that if we are going to start



reallocating, we ought to let them do their job, we agreed to let them do it across the entire budget process.

Mr. LARGENT. In essence, it really doesn't even set in place the 602(B), they could actually fully fund the 602(B) where they want it, but in reality—say in this instance it ends up \$37.5 million, what that really does is bring the 602(A) down \$37.5 million and still allows the Appropriations Committee some latitude to do whatever they want within the 602(B). Is that correct?

Mr. CRAPO. That is correct. And like I say, that was a concession to the Appropriations Committees who felt that we were too harshly restricting their discretion. I frankly drafted it the other way so that it would have brought the 602(B)s down. But the most recently negotiated version does give the appropriations committee budget discretion at the 602(B) level but requires that the 602(A) level they must find those reductions somewhere.

Mr. LARGENT. Thank you.

Mr. HERGER. Thank you.

Mr. Stenholm.

Mr. STENHOLM. Yes, Mr. Barton, the BEST bill, Budget Enforcement Simplification Trust Act—so people don't get the feeling that we think one bill is better than the other in this. [Laughter.]

Mr. BARTON. I happen to think it is best.

Mr. STENHOLM. Well, I happen to share that with you, but we might get outvoted. But the BEST bill in the entitlement cap portion, have you discussed this with the leadership of the House?

Mr. BARTON. Mr. Stenholm, I have not split that out from the main bill, as you know, but I have informally discussed it with the Speaker. And when I say informally, I mean very informally. I caught him in an elevator and talked to him for about 3 or 4 minutes as we were going to a vote. And his instructions were: Check it out, if you can make it bipartisan and get the Budget Committee to look at it seriously, he would be willing to support—encourage the Rules Committee to give us a quick route to the floor on it. So I have done that, but there has not been a formal meeting with the Speaker's advisory group or the leadership team on it.

Mr. STENHOLM. Now, one core component of the BEST bill concerns a rainy-day fund. In listening to Mr. Largent's questioning regarding the lock box—and I am a supporter of the lock box—it suddenly occurred to me that maybe there is some merit at least to be looked at, that in any appropriation bill in which something is locked, that it would go to the rainy-day fund. The rainy-day fund must be budgeted dollars.

Mr. BARTON. Right.

Mr. STENHOLM. These are not extra dollars. These are dollars that must be accounted in the same way of a 602(B) allocation.

Mr. BARTON. Right, be part of the formal budget process, and the rainy-day fund also has specific definitions about what could be spent out of the fund. So it would not be subject to—I won't say the whim of the Congress, but it would have to be a natural disaster, you know, unless the Congress voted to override the definitions.

Mr. STENHOLM. In the example, Mr. Largent was talking about in the area of the defense budget; it can happen in any one. If

these moneys went to the rainy-day fund, they could only be spent by an appropriate action of the Congress.

Mr. BARTON. Correct.

Mr. STENHOLM. And would not be something that would be conferenceable per se.

Mr. BARTON. That is correct.

Mr. STENHOLM. I am thinking out loud now.

Mr. BARTON. Submarines and B-2 bombers would not be part of the rainy-day fund.

Mr. STENHOLM. Rainy-day fund, according to the way——

Mr. BARTON. That would not be an emergency.

Mr. STENHOLM. Any comment, Mr. Crapo?

Mr. CRAPO. Well, I obviously would prefer to see the moneys go into deficit reduction, but certainly that approach would be better than what we have today.

Mr. STENHOLM. Well, again, my preference, too, would be. But Mr. Largent points out one of the intricacies in which sometimes the best-laid plans of mice and men don't work out quite like we want it to because the system that we agree we want to operate under doesn't allow it to happen as purely.

Mr. CRAPO. That is correct.

Mr. STENHOLM. So, therefore, even those of us that would like to see it go to deficit reduction, the best way we could do that is to make sure it was not spent for an emergency purpose.

Mr. CRAPO. Undoubtedly, and that would be a good step forward. The only thing that I would caution there is that you would still have the problem, if the moneys that were in the lock box went into a rainy-day fund, you would still have the problem of making sure that the debate on the floor over the original amendment was accurate and that people weren't claiming deficit reduction for moneys that were really going into a trust fund.

Mr. STENHOLM. That is true.

Mr. Smith, in your suggestions regarding making it more difficult for the President to get around the debt ceiling, et cetera, I want to make a comment and get your response to it.

When we talk about appropriations and budgets, I have found nothing in the Constitution of the United States or the rules of the House of Representatives that requires a President to pass a budget or to pass appropriation bills. That is the Congress' responsibility.

The Congress passes an appropriation, sends it to the President. If the President signs it, everything is peachy. If he vetoes it, then it is up to the Congress to override that veto. If you can't override it by the required number of votes, then you say, Mr. President, how may we change that which we would like to do in order to make it more acceptable to you?

What is wrong with that process?

Mr. SMITH of Michigan. Well, I think my particular concern, Charlie, is the 50 percent or so of the budget that is not appropriated. It is a question of trying to put a congressional control on how much spending should occur in those particular, so-called, entitlement programs. So in the traditional appropriation bills, I think the system works very well, and that is the Congress deciding——

Mr. STENHOLM. But your suggestion to the committee includes three specific recommendations: one, to prohibit the underinvestment and disinvestment of Government trust funds for purposes of breaking the debt ceiling. It seems to me it is all aimed at making it more difficult for the President.

What I am asking is: What is wrong with the system now that kind of got broken down last year, in my opinion, in that the Congress didn't do its work because we didn't really try to override the President very many times? And is this really necessary?

Mr. SMITH of Michigan. I think in the traditional 13 appropriation bills, the current system works very well. What has happened, though, that should give us some concern is that we have now, in effect, delegated control over the entitlement spending to the discretion of the President, so no longer can a majority in Congress make any changes in that 50 percent of the budget that goes into entitlement spending.

Let me add a fourth consideration that I think we should be dealing with, and that is default or non-payment of Social Security payments. I also introduced legislation that would make it clear that the President could prioritize spending in the event that a debt limit was reached and Congress had not yet increased that debt limit. The debt limit has been increased 78 times since Congress took over control of establishing a limit rather than approving each individual borrowing transaction. And it seems to me that we also need to make it very clear that the administration has some authority to prioritize some of those less important payments if a situation develops where there is not enough cash on hand to make all payments.

But, Charlie, let me just try once more, a couple sentences. What is wrong with the current system in terms of controlling entitlement spending is that Congress has lost its control over entitlement spending, and we, in effect, have lost our authority to decide how much money should be spent.

Mr. STENHOLM. Have we lost it, or are we just refusing to use the authority that is vested in the Congress? And I think this is what you are suggesting. We pass the buck to the President. My comment was that really there is no such thing as entitlement spending.

Mr. SMITH of Michigan. The supermajority, or two-thirds, now still has control of the spending in terms of the entitlement programs. But that is a supermajority to make changes in the entitlement spending as opposed to a simple majority that can propose spending in the 13 appropriation bills. It seems to me reasonable that we look at some way to regain a little more congressional control than we now have over the 50, 65, 70 percent of the spending that is not in the 13 appropriation bills.

Mr. HERGER. Mr. Browder?

Mr. BROWDER. I hesitate to follow this up, but to follow up on what Mr. Stenholm was saying, the supermajority required for entitlement—

Mr. SMITH of Michigan. I am sorry. What?

Mr. BROWDER. The supermajority required for changing the entitlement, hasn't that been what we have been functioning under that process, so we don't have a change right now. Am I right?

Mr. SMITH of Michigan. Well, we passed these laws that said that if you meet the criteria for eligibility, you are automatically entitled to the spending. Since Congress passed those laws and, in effect, gave up some of its, if you will, annual authority over this spending, then it requires the supermajority if the President doesn't agree with the majority.

Mr. STENHOLM. Would the gentleman yield on a follow-up?

Mr. BROWDER. Yes.

Mr. STENHOLM. I was trying to think about what you were meaning by supermajority. I believe it is correct that we can change any entitlement program with a majority vote. It doesn't require a supermajority to change any entitlement I am aware of.

Mr. SMITH of Michigan. Well, yes, but the President has to sign it.

Mr. STENHOLM. You are assuming a veto.

Mr. SMITH of Michigan. Yes.

Mr. STENHOLM. I am saying, again, that was my question to you, because it seems that in your testimony you were trying to place more blame at the Presidential level. My point is we can change—and I agree with you, Nick. I have no basic disagreement with your thrust of the problem. But it seems to me that the Congress can change any program, any program, with a majority vote. If a President agrees with us, it is fine. If he disagrees with us, then he vetoes, it requires two-thirds. If we override him, no problem. If we don't, then you have got to work out the changes.

Mr. SMITH of Michigan. Maybe just for a quick instance, let's review where we were in 1960. In 1960, discretionary spending represented 90 percent of this total pie, of total Federal spending. And so since 1960—since 1959, starting in 1960, we have given up more of our immediate control over that spending by having these kinds of entitlement programs that now can no longer be changed without the consent of the President or a supermajority.

Mr. BROWDER. I think the gentleman from Texas is right, but I would like to compliment Mr. Smith because I think you are focusing our attention on a psychological—a change in the psychological environment around here. We continue to fight over less and less of what we are doing. And I think that is a useful service that you are providing for us.

Mr. SMITH of Michigan. The other danger, it seems to me, Glen, is that though I have only been here 4 years essentially most all of the arguments in the appropriation bill process are so similar to what they were last year and the year before and the year before that there is a danger that we have been paying so much attention to 15 percent of the total budget that we forget the other 85 percent.

Mr. BROWDER. Thank you. Thank you, Mr. Chairman.

Mr. HERGER. Anyone else? Any further comments that either of you, Mr. Crapo or Mr. Smith, would like to make?

Mr. CRAPO. No.

Mr. HERGER. Well, with that, we will stand in recess until 1 o'clock. Thank you very much, gentlemen.

[Whereupon, at 11:50 a.m., the committee recessed, to reconvene at 1:00 p.m., this same day.]

Mr. WALKER [presiding]. The Budget Committee will come to order. We are pleased now to hear from Congressman Mike Castle of Delaware and Representative Peter Visclosky of Indiana, both of whom have concepts for reforming the budget process. And we are delighted that you would take time to testify before us.

Mr. Castle, let us have you lead off.

**STATEMENT OF HON. MICHAEL N. CASTLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF DELAWARE**

Mr. CASTLE. Thank you, Mr. Chairman.

You look like a king sitting up there.

Mr. WALKER. The crown's coming, Your Majesty. [Laughter.]

Mr. CASTLE. It is a pleasure to testify before you. I will be brief because my concept is, while any budget change is obviously highly significant, is relatively simple and I think it's common sense.

I haven't heard all the testimony but I have been before other panels on budget changes heretofore and my judgment is that most of the changes which have been suggested make a great deal of sense. I think budgeting is the single most important thing that we do.

The area that I would like to testify to is relatively limited but I think also important. But I have been concerned—more so in my first couple of years than the last couple—about the problem of emergency appropriations. Most of the States, and this has been relatively recent, and certainly my State of Delaware, have rainy day funds now to pay for unexpected disasters. And since the 1960s, perhaps, that's been adopted in a lot of States.

Now, the Federal budget is obviously much larger, more complex than State budgets, and we don't know for sure what the Federal responsibility is going to be when there is a disaster and I understand all that. But I still think that some planning for disasters is needed. I think we need to make that emergency spending part of the ongoing budget process as opposed to a special appropriation.

The current system allows supplemental appropriations to be designated as an emergency and not subject to spending limits, which I think, in and of itself is a problem. And this Congress has made a practice of requiring other spending offsets for emergency spending but we have not fixed that system. Congress can still revert to its old practices at any time.

The budget reserve account would require a budget resolution to establish a level for emergency spending for that year; the Appropriations Committee would set aside funds in a reserve account. When a natural disaster or other emergency occurs, the funds to respond would be drawn from the reserve account. The authority to appropriate funds outside of annual spending then would be limited.

Congress would set a level for reserve accounts based on past experience, and \$5-to-\$6 billion would cover emergencies in most years. Now, the question immediately comes to mind, what happens if the emergencies that come before us, wartime, whatever, exceed the allotted amount. A variety of things could happen. If you have a Desert Storm or a big earthquake in California, the big earthquake in California and the fund was exhausted, obviously Congress could waive the act.

I think that Congressman Sam Johnson has proposed a look back for the next year in which you would assume appropriations in the next year for any emergency appropriations during the current fiscal year and obviously you could either reduce expenditures or waive the Act altogether if one needs to. But, hopefully, we wouldn't have to face that, we will have covered most expenditures.

As I have indicated, we had this in Delaware, when I was governor. And we had surpluses each year. Most of the States have surpluses each year. In Delaware, the General Assembly can allocate free funds by a three-fifths vote which I think limits just who might get emergency funds. And then it is rolled over from year-to-year.

But I think at the Federal level, it should be used to reduce the deficit from year-to-year and then reappropriate it in the year after but that's obviously subject to whatever the budget people would conclude with respect to how that should go.

My proposal would also require OMB to report on how emergency funds are actually spent. I think we need a better accounting for the funds we appropriate for emergencies, both in terms of the requests and then how the requests are met and, frankly, how the money is spent after that.

I'm not at all satisfied that if we appropriate this money—and I can tell you, as a governor, I was often sort of mystified about the amount of money that was given to us for beach erosion or whatever—it would be from the Federal Government, and we were always extremely careful about collecting every possible charge we could pass on to the Federal Government as I think any good State would do.

And I think some of those probably should have been subject to closer scrutiny, not that Delaware ever did anything remotely wrong, but some States might in those instances. And I think that needs to be looked at rather carefully as well.

I realize there is no perfect solution to this and maybe my proposal should be more of a skeleton proposal than fixed in stone in terms of what we should do. But I think the time really has come to start to treat emergency appropriations in some regular fashion as opposed to this business of a special appropriation thereafter.

And I appreciate the opportunity of being here.

[The prepared statement of Michael Castle follows:]

PREPARED STATEMENT OF HON. MICHAEL N. CASTLE, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF DELAWARE

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before the committee today to discuss possible improvements to the Federal budget process, particularly in the area of emergency appropriations.

I believe we need to take a variety of steps to improve how our Government spends the people's money. A strengthened budget process will not eliminate the Federal deficit by itself, but it will make a real contribution to the effort and help restore our constituents' faith in how we are managing their tax dollars. I strongly support your efforts to review the budget process and develop a plan to improve the current system.

In August, 1994 I appeared before the Government Operations Committee to argue that we must change the budget rules to require Congress to include emergency spending in the annual budget process, particularly our annual spending limits. As a result of the leadership of John Kasich and other members of this committee, in 1994, the House passed the Kasich-Penny-Stenholm legislation to prevent non-emergency spending from being added to emergency appropriations bills. While

that proposal was a good start, it did not fully address the problem of how Congress appropriates money for disasters and other emergencies. As you know, the Senate failed to act on any budget reform legislation in the last Congress, so our entire task is still before us.

My view is that we must budget for emergencies and set those funds aside in a reserve account.

As you know, under current budget law, emergency spending is not subject to the annual spending limits. This is a critical shortcoming in our system. It permits us to avoid planning for earthquakes, hurricanes, floods and other disasters. We know that they will almost certainly occur, yet we fail to plan for them. When they have happened, Congress has either declared an emergency and appropriated billions of dollars to respond to the disaster adding to the deficit, or engaged in a necessary, but divisive debate over cuts in other programs to offset the needed emergency spending.

From a budgeting standpoint, the worst part of the current system is that emergency funds do not have to be offset by other spending reductions. While the current Congress, under the leadership of John Kasich and others on this committee and the Appropriations Committee, has admirably made it a policy to find offsets, a future Congress could simply return to the traditional practice of just adding emergency appropriations to the deficit.

As you know, when Congress does consider offsetting the cost of emergency spending, this debate often becomes divisive and can actually slow prompt action to help the victims of the natural disaster. This is an unfair and unnecessary conflict.

Another problem in previous Congresses has been that because emergency appropriations are not subject to annual spending limits it has encouraged the addition of funds for projects which are clearly not part of the emergency at hand. Funding for the renovation of Penn Station in New York and the FBI Fingerprint Center in West Virginia are examples of nonemergency projects that were funded in emergency supplemental appropriations bills in the 103d Congress.

Mr. Chairman, we cannot predict the exact time and nature of a disaster, but it is quite probable that they will occur and Congress should make an attempt to plan and pay for these emergencies—within existing budget limits.

My proposal, H.R. 1245, would create a budget reserve account into which Congress would annually appropriate funds for emergencies. The funds in the reserve account would be included in the annual discretionary spending caps set by the budget resolution and administered by the Appropriations Committee. The funds in the reserve account would lower the amount of funds available for other programs. This is a key point and is the only responsible approach to spending.

The teeth in this proposal is that it would eliminate Congress' authority to spend money outside the budget limits. This would force Congress to set aside an adequate amount of funds in the reserve account.

What is an adequate amount? I think Congress and the President should take a careful look at the amount of emergency funds needed in previous years and base the reserve account on this experience. For example, the average cost of emergency appropriations bills from 1989 to 1994 was \$5.2 billion and from 1991 through 1994 it was \$5.8 billion. If Congress set aside roughly that amount it would give our Government enough funds to handle most disasters and provide protection against unnecessary deficit spending.

If we are fortunate enough to escape hurricanes or floods in a particular year and the reserve funds are not used, they would revert to the Treasury and therefore lower the deficit.

Mr. Chairman, I have based this legislation on my experience as Governor of Delaware. Most States must operate with a balanced budget. This is true in Delaware. When the State has a surplus at the end of any fiscal year, these funds are placed in a budget reserve account which is not to exceed 5% of the estimated State revenues. When there is an emergency the General Assembly can allocate the reserve funds by a three-fifths vote. I have adopted this concept to the Federal Budget System.

In Delaware, the reserve funds are rolled-over from year to year. I did not adopt that feature because in the Federal budget an annual appropriation is standard practice and frankly, because on the Federal level accounts with money in them from year to year tend to be spent.

Mr. Chairman, I believe my proposal is a sound one, but I will not insist that it is the only approach which should be considered. I am willing to work with you and the members of this committee to attempt to improve the way we handle spending for natural disasters and other emergencies.

The critical change which must be made is to bring emergency spending within the budget limits. It is not "free" money and should be accounted for just like any other expenditure.

I look forward to working with you to enact true reform of the emergency spending process. Thank you.

#### CONGRESSMAN MICHAEL N. CASTLE: THE BUDGET RESERVE ACCOUNT

##### WHAT IS THE PURPOSE OF THE BUDGET RESERVE ACCOUNT?

A Budget Reserve Account would require Congress to budget funds for natural disasters and other emergencies. Appropriations would be set aside each year to cover the costs of natural disasters and national security emergencies.

##### HOW WOULD THE RESERVE ACCOUNT WORK?

The annual Budget Resolution would set an overall amount to be set aside in the account. The reserve funds would be within the annual discretionary spending caps. When a disaster occurs the Appropriations Committee would produce an Emergency Appropriations bill from the funds in the reserve account.

##### HOW MUCH MONEY WOULD BE PLACED IN THE ACCOUNT?

Congress and the Administration would set the amount based on what was needed in previous years. The average cost of domestic discretionary emergency spending bills from 1991-1994 was roughly \$5.8 billion. If we appropriated that amount we would have a significant amount of money available to respond immediately to natural disasters. Most importantly, these funds would be within the annual spending limits and would not add to the deficit.

##### WHY SHOULD CONGRESS APPROPRIATE FUNDS INTO THE ACCOUNT?

This proposal would eliminate Congress' authority to appropriate emergency funds in excess of the annual spending caps. This would ensure that Congress would set aside a realistic amount of money to deal with the most likely emergencies. Under current law emergency spending is simply added to the deficit; this process must be changed.

##### WHAT HAPPENS IF A DISASTER EXHAUSTS THE RESERVE ACCOUNT?

There is always the possibility that a disaster or series of disasters could require more emergency funds than is available in the reserve account. If such a situation occurred there are several steps Congress can take: First, Congress could make cuts in other programs to free-up funds for disaster relief. This is often what we try to do under the current rules. Second, if the disaster was so severe or there was a national security emergency like Desert Storm, there would surely be agreement in Congress to waive the Budget Reserve Account Law and pass special legislation to respond to the disaster. Or, Congress could add the proposal by Congressman Sam Johnson to establish a "look back" provision which would lower the discretionary spending level for the subsequent year by the amount spent on emergencies the previous year.

The Key point is that the Reserve Account would allow us to respond to most emergencies within our budget limits.

##### WHAT HAPPENS IF THE RESERVE FUNDS ARE NOT USED?

Unexpended funds would be returned to the Treasury. Obviously, this would help reduce the Federal deficit.

##### WHAT COULD THE RESERVE FUNDS BE SPENT ON?

Only on specific natural disasters and national security emergencies designated by acts of Congress. No executive agency would be given any additional discretionary funds.

##### HOW WILL WE MONITOR HOW EMERGENCY FUNDS ARE SPENT?

The Office of Management and Budget (OMB) will be required to report annually to Congress on how funds from the Account are spent on each emergency.



## EXISTING LAWS CHANGED BY THE CASTLE PROPOSAL:

Amend the Congressional Budget Act of 1974 to create the Reserve Account and require that these funds be included in the Annual Budget Resolution and Section 602 allocations administered by the Appropriations Committee.

Amend the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings) to repeal the authority for Congress to appropriate emergency funds not subject to budget limits.

There is no perfect solution to the problem of emergency spending, but the Budget Reserve Account would bring emergency spending into the annual budget process and limit spending to real emergencies.

Mr. WALKER. Thank you very much, Mr. Castle.

Mr. Cardin, we welcome you at this point, but let's go to Representative Visclosky next.

**STATEMENT OF HON. PETER J. VISCLOSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA**

Mr. VISCLOSKY. Thank you, Mr. Chairman.

Mr. Sabo would appreciate the opportunity to enter my entire statement into the record.

Mr. Chairman, as a member of the Appropriations Committee, I am often frustrated by the fact that our efforts to reduce the deficit and balance the budget usually end up falling to the annual appropriations process. Elaborate legislative schemes that establish deficit targets like the Gramm-Rudman-Hollings bill may have forced us to cut spending but these targets have usually been met by simply cutting discretionary programs, leaving entitlement spending untouched.

While we have been more than happy to sacrifice programs funded by discretionary spending, Congress has been extremely reluctant to address mandatory spending. During fiscal year 1995, mandatory spending including net interest on the debt reached approximately \$1 trillion, accounting for about 65 percent of all Federal spending.

By fiscal year 2000, the CBO estimates that mandatory spending will consume nearly \$1.5 trillion or more than 80 percent of the total Federal budget. Compare these figures to just 20 years ago, when mandatory spending consumed nearly one-third of all the Federal budget.

In the end, there are only two effective ways of bringing entitlement spending under control. Change the structure of the programs to slow the growth of the benefits being paid out, or raise taxes to pay for the existing benefit structure.

The first method has always been considered politically lethal and Americans, today, pay on average 34 percent of their lifetime earnings in taxes. And we, as a body as well as various administrations, have lacked the stomach to do anything in that regard.

To address these problems, I introduced legislation, along with committee member Representative Charlie Stenholm, which sets enforceable targets for both discretionary and entitlement spending. The legislation is H.R. 1516.

Unlike similar bills that allowed Congress to meet deficit targets by cutting discretionary spending alone, the Balanced Budget Enforcement Act puts everything on the table, including both discretionary and entitlement programs.

It is also unique in that the bill contains a strict enforcement mechanism that prevents us from shying away from making needed reductions in entitlement spending.

First, the bill sets deficit targets through the year 2000 and establishes hard discretionary spending caps to meet those targets. If that total exceeds the cap, the excess is eliminated by a simple across-the-board sequestration of all discretionary accounts by a uniform percentage. No program would be exempt.

And second, the bill sets up a comprehensive process for recognizing additional deficit reduction through entitlement cuts or tax increases. The bill only specifies the total amount of deficit reduction to be achieved through entitlement cuts and tax increases. It would be left to the Congress to decide which of the mix they would choose.

Mr. Chairman, this comprehensive approach, again, places everything on the table and would hold the Administration and Congress' feet to the fire. I am pleased to say that this act was a model for part of the Coalition's 1995 reconciliation bill and by including many of the bill's enforcement mechanisms, I believe the Coalition's reconciliation bill ensures that Congress would be required to deal with the overwhelming growth of mandatory spending and that it would be held accountable for its actions.

In closing, we should be very proud of the fact that by the time this fiscal year ends, the budget deficit will be at its lowest point in a decade. However, more hard work remains to be done and I am hopeful that this committee will consider some of the thoughts that I have expressed today, as it draws up legislation that would help reform the budget process.

Mr. Chairman, Mr. Sabo, again, I appreciate the opportunity to testify today.

[The prepared statement of Peter Visclosky follows:]

PREPARED STATEMENT OF HON. PETER J. VISCLOSKY, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman, I want to thank you and the members of the Committee for giving me the opportunity to testify before you today on the subject of reforming the congressional budget process. I am here today because I believe as Members of Congress it is our moral responsibility to balance the federal budget, and it is my hope that I have something useful to offer to this effort. With your permission, Mr. Chairman, I would request that my prepared statement and attachments be included in the hearing record.

When I entered Congress in 1985, I did not believe that a balanced budget amendment to the Constitution was necessary. However, after having watched three Presidents and six Congresses fail time and time again to arrive at a balanced budget, I am now convinced we need the fiscal discipline that a balanced budget amendment would impose. That's why I supported a constitutional amendment to balance the federal budget for the first time last year.

I am pleased to say that even without a balanced budget amendment, the members of this body have been working together like never before to stop running up massive deficits and balance the budget. We have been especially successful at cutting out the kind of wasteful and ineffective programs that had become all too prevalent in the federal budget. We are quickly coming to the point, however, when we start running out of fat in the budget and begin cutting into genuine muscle. Last year alone, Congress voted to cut \$1.5 billion from higher education programs, \$7 million from enforcement of worker safety regulations, \$175 million from airline safety, and millions of dollars from other programs which most Americans think the federal government should be funding.

As a member of the Appropriations Committee, I am often frustrated by the fact that our efforts to reduce the deficit and balance the budget usually ends up falling

to the annual appropriations process. Elaborate legislative schemes that established deficit targets like the Gramm-Rudman-Hollings bill may have forced us to cut spending, but these targets have usually been met by simply cutting discretionary programs, leaving entitlement spending untouched. Even with its proposed cuts to Medicare, Medicaid and welfare, the Republicans budgets have put more than 50 percent of the budget off-limits by placing Social Security and defense spending above the reach of budget cutters. In the past two years alone, we have reduced annual appropriations by \$24.3 billion—a figure which does not even account for inflation or projected growth—while entitlement spending has risen by more than \$75 billion during the same period.

While we have been more than happy to sacrifice programs funded by discretionary spending, Congress has been extremely reluctant to address mandatory spending. During Fiscal Year 1995, mandatory spending, including net interest on the debt, reached approximately \$1.054 trillion, accounting for about 65 percent of all federal spending. By Fiscal Year 2000, the Congressional Budget Office estimates that mandatory spending will consume nearly \$1.565 trillion, or more than 80 percent of the total federal budget. Compare these figures to just thirty years ago, when mandatory spending consumed barely one-third of all federal spending.

What's more, the budgetary problems surrounding entitlement spending are only going to get worse over the next several decades. In 1945, when Social Security first began paying out benefits, there were more than 40 workers supporting every recipient. Between 1990 and 2030 the number of Americans over 65 will double, while the working age population will grow by just 25 percent. That means that in the year 2030, just 2.8 workers will be supporting each beneficiary, compared with 4.8 workers today. Not coincidentally, 2030 is also the same year that the Social Security trust fund is projected to be completely exhausted.

We can argue all day about who is responsible for this situation, but what we really need to do is sit down and figure out how to fix it. I am not saying the solutions will be simple, but we cannot arrive at them, if we refuse to even discuss them. To me, one of the surest ways to sabotage our efforts to achieve a balanced budget is to remove items from the table and to grant expensive tax breaks before achieving our goal. I find it absolutely unconscionable that we are even considering granting new tax breaks while we are struggling to balance the budget for the first time in more than a generation.

That is why I, and many of my like-minded colleagues, voted against the 1995 budget reconciliation bill, as well as this year's budget resolution. It is true that last year's reconciliation bill arrived at a balanced budget by the year 2002. But by granting \$245 billion in tax breaks, it would have made it even more difficult to balance the budget and imposed additional debt on future generations to pay for these tax cuts.

By contrast, the budget bill that I voted for, the so-called "Coalition" budget, presented a steady path to a balanced budget without raising the deficit and without cutting taxes. The benefit of this approach was twofold. First, it arrived at a balanced budget as quickly as reasonably possible without piling extra debt onto the overwhelming amount of debt that already exists. Second, it reduced the need to inflict crippling cuts on either mandatory or discretionary spending programs by prohibiting any tax cuts before the budget is actually balanced. While this common sense approach to balancing the budget was not embraced by a majority of the House, I am encouraged by the fact that the Coalition budget attracted more support than it ever had before.

In the end, there are only two effective ways of bringing entitlement spending under control: change the structure of the programs to slow the growth of the benefits being paid out; or raise taxes to pay for the existing benefit structure. The first method has already been considered politically lethal because any changes would be rejected by those who are currently receiving the benefits, as well as those who are paying into the programs for the future. With regard to taxes, Americans pay, on average, about 34 percent of their lifetime earnings in taxes. No one likes to pay higher taxes, but if everyone alive today were exempted from paying higher taxes needed to pay for mandated benefits, those born after 1993 would have to pay 84 percent of their wages in taxes.

To address these problems, I introduced legislation, along with Committee member Rep. Charlie Stenholm, which sets enforceable targets for both discretionary and entitlement spending. This legislation, H.R. 1516, the Balanced Budget Enforcement Act, was introduced in previous Congresses by our former colleagues Leon Panetta and Tim Penny. At its core, this legislation would force us to balance the budget by the year 2002 and keep it balanced thereafter. Unlike similar bills that allowed Congress to meet deficit targets by cutting discretionary spending alone, the Balanced Budget Enforcement Act puts everything on the table, including both discre-

tionary and entitlement programs. It is also unique in that the bill contains a strict enforcement mechanism that prevents us from shying away from making needed reductions in entitlement spending. Please, find attached a summary of H.R. 1516.

First, the bill sets deficit reduction targets through the year 2002 and establishes hard discretionary spending caps to meet those targets. At the end of each Session, the total amount of discretionary funding in an appropriations bill is added up. If that total exceeds the cap, the excess is eliminated by a simple, across-the-board sequestration of all discretionary accounts by a uniform percentage. No programs would be exempt.

Second, the bill sets up a comprehensive process for realizing additional deficit reduction through entitlement cuts or tax increases. The bill does not specify which entitlement programs are to be cut, or how much, if any, of this target should be achieved through tax increases. It only specifies the total amount of deficit reduction to be achieved through entitlement cuts and tax increases combined. Congress would be free to set priorities for the mix of entitlement cut and/or tax increases enacted to meet these targets.

This process begins with the existing budget resolution process, which would include a reconciliation directive specifying the dollar amount of entitlement cuts for each committee of jurisdiction. When the conference agreement on the budget resolution is agreed to by Congress, a "spin-off" bill would automatically be sent to the President for signature or veto. The reconciliation targets set in this spin-off bill would be legally binding and enforceable.

If the spin-off bill is signed by the President, then the committees of jurisdiction are required to meet their reconciliation targets. If at the end of the Session, a committee has failed to meet its targets, entitlement programs under that committee's jurisdiction would be sequestered to make up for the shortfall. Committees meeting their targets would not be penalized if programs outside their jurisdiction exceeded the targets.

If, on the other hand, the spin-off bill to the President is not enacted, then the reconciliation targets would be met using comprehensive sequestration. In this case, the committee-by-committee entitlement targets in the budget resolution are not law, and so cannot form the basis for committee-by-committee sequestrations. Likewise, the distribution of tax increases and entitlement caps in the budget resolution cannot form the basis to make up for any shortfall in deficit reduction.

Under comprehensive sequestration, every entitlement would be reduced by a uniform percentage, and that same percentage would be used to increase marginal income tax rates on personal income above \$250,000 and corporate income taxes over \$10 million. The percentage would be calculated to offset exactly the shortfall in deficit reduction. This comprehensive approach would reduce entitlement spending by \$4 for every \$1 in revenues.

I am pleased to say that the Balanced Budget Enforcement Act was a model for part of the Coalition's 1995 reconciliation bill. By including many of H.R. 1516 enforcement mechanisms, the Coalition's reconciliation bill ensured that Congress would be required to deal with the overwhelming growth of mandatory spending and that it would be held accountable for its actions. This year's Coalition budget resolution also called on Congress to include the same kind of strong enforcement mechanisms in the final version of budget reconciliation in order to ensure that Congress really does balance the budget.

In closing, Mr. Chairman, I would like to applaud your efforts to balance the budget in a fair and evenhanded manner. We should be very proud of the fact that by the time this fiscal year ends, the budget deficit will be at its lowest point in a decade. Still, more work remains to be done and I am very hopeful that the Committee will consider some of the thoughts I have expressed today as it draws up legislation that would reform the budget process.

Attachment.

#### BALANCED BUDGET ENFORCEMENT ACT OF 1995

##### SUMMARY

(1) *Deficit Reduction Targets* (in addition to the amounts required by current law) to reach balance in 2002.

	1997	1998	1999	2000	2001	2002	Total
Discretionary caps .....	4.2	18.7	32.6	52.9	68.8	90.8	268.0

	1997	1998	1999	2000	2001	2002	Total
Entitlement revenue scorecard .....	31.2	52.9	73.3	86.7	99.4	102.2	445.8
Debt service .....	1.0	3.9	8.3	14.4	22.3	31.9	81.7
Grand total .....	36.4	75.4	114.2	154.0	190.5	224.9	795.5

(2) *Setting Sound Economic Estimates:* The President appoints a "Board of Estimates," consisting of the Chairman of the Federal Reserve and four private citizens nominated by House and Senate party leaders. The Board must choose either CBO's or OMB's estimates of how much deficit reduction is needed in that Session. The Board's choice would be binding on the President and Congress, so that the deficit reduction requirement for each would be identical. Finally, the Board would meet again after adjournment to pick either CBO's or OMB's estimates of how much deficit reduction was actually accomplished by Congress during the Session.

(3) *Requirement of President to Submit Balanced Budget:* The President must propose a budget that will reach balance by 2002. Further, the President's budget must use the assumptions chosen by the Board of Estimates, meet all discretionary caps and entitlement/revenue deficit reduction targets, and achieve balance in 2002 and each year thereafter, and be voted on by Congress.

(4) *Requirement of Budget Committees to Report Balanced Budget:* Likewise, the congressional budget resolution must also lay out a plan to reach balance by 2002. Budget resolutions also must use the estimating assumptions chosen by the Board of Estimates, meet all discretionary caps and entitlement/revenue deficit reduction targets, and achieve balance by 2002 and each year thereafter.

(5) *Enforcement: A. Discretionary savings—Appropriations.* The discretionary savings will be achieved by keeping appropriations bills within a single annual cap, and enforced by across-the-board sequestrations of discretionary programs.

*B. Entitlement/revenue savings—Reconciliation.* The entitlement/revenue deficit reduction priorities will be set through the annual budget process. The budget resolution (conference agreement) will include a reconciliation directive targeting by committee the dollar amount of deficit reduction to be achieved from entitlements and/or revenue and will generate a "spin-off bill" (to be sent to the President) putting those targets into law.

*C. Sequestration—Overall reconciliation requirements will be enforced by sequestration; the type of sequestration in any year depends on whether a spin-off bill has been enacted.*

(1) *Targeted sequestration to enforce reconciliation:* (applies if a spin-off bill *has* been enacted, either as a result of a budget resolution or, later, as a title in a reconciliation bill). If a committee misses its entitlement target, entitlement programs within that committee's jurisdiction will be sequestered by a uniform percentage to meet the target. If revenues do not meet the revenue target, a uniform personal and corporate surtax will be imposed to meet the target.

(2) *Comprehensive sequestration:* (applies if a spin-off bill *has not* been enacted; this would generally occur if the President first vetoes the spin-off bill, then vetoes a reconciliation bill containing the committee targets). There will be a comprehensive sequestration of entitlement spending and some revenue provisions in the amount needed to hit the overall target for entitlement/revenue deficit reduction. For revenues, a surtax would be imposed upon personal annual incomes greater than \$250,000 and corporate incomes over \$10 million. This formula will produce \$4 in entitlement spending cuts for every \$1 in revenue increases.

(6) *Tax cuts/Investment:* Tax cuts and/or investment policies can be enacted if they are paid for.

Mr. WALKER. Thank you, Congressman Visclosky.

Mr. Cardin?

## STATEMENT OF HON. BENJAMIN CARDIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. CARDIN. Thank you, Mr. Chairman.

It is a pleasure to be here and I thank the committee for holding these hearings and giving me and other members an opportunity to testify. I think it's important that you hold these meetings now while there's a relative calm here in Congress, but we all know

that there will be more storms and it is important that we develop rules and procedures that will work during some of our more difficult times in dealing with the budget issues.

Last week, I got a chance to testify before the Rules Committee on process changes, and I think the work that is being done in this committee, as well as the Rules Committee, is very important for the procedures of this Congress.

I might say that I chair the Democratic Caucus Committee on Organization Study and Review [OSR], which generally looks at the rules and procedures of the House. And, in that regard, Mr. Chairman, let me tell you that the Democratic Caucus is looking forward to working with you and this committee in looking at reforms in the budget process, and we make that offer to work in a bipartisan way in order to improve the budget process of this Congress.

I might say, though, that my testimony is my personal testimony on legislation that I have filed and does not represent the work of the OSR.

I have introduced two bills to deal with budget procedures. The first bill that I've introduced converts the budget resolution from a concurrent resolution of Congress into a joint resolution that would require the President's signature. I do that for several reasons.

First, it seems to me somewhat counterproductive for us to go through a budget resolution process which provides for the blueprint of the Nation's spending and to work a whole year in implementing that blueprint, knowing full well that the President ultimately is going to veto that blueprint.

We should resolve the problems with the Executive Branch early in the process. Let us resolve the budget differences before we get into the specifics on the blueprint. And by bringing the President in to sign the budget resolution we avoid the conflicts at the end of the budget cycle. Let's confront that upfront, let's get our disagreements worked out.

By also having the resolution have the force and effect of law, once it is signed by the President my recommendation would be that that would have an automatic impact on increasing the debt ceiling. So that we would get the debt ceiling issue again well over with before any threatened default on the national debt.

This year, as you know, we ran dangerously close to defaulting on the national debt obligations. And I think that would have been a tragic mistake. There is no reason for us working to the deadline; this could all be resolved in the spring of the year rather than the fall of the year.

The second bill that I have introduced would require the conference report on the budget resolution be approved by April the 15th, and if we didn't approve it by that day we would need to stay in session and could not go on any lengthy recess or adjournment.

We should stay in session and get our work done. We need to avoid gridlock and I think the way that you avoid gridlock, again, is to have earlier deadlines for resolving the philosophical differences that may exist between the House/Senate and the President and get that resolved; get the debt ceiling behind us and get our work done at an early stage so that the committees can work

to fill in the spending programs, that we should not go into recess or adjournment until we have completed our work. The bill also provides that there be no lapse of any appropriation, that the Congress must stay in session.

I've listened to my colleagues give alternative suggestions that I support that would avoid a Government shut-down. I think it makes sense for there to be statutory authority to continue Government operations. And there are different ways that you can do it. You can revert back to the prior year's appropriation, you could provide for contingency appropriations in the current year budget, but I do think there should be an automatic way that we avoid a Government shutdown. It's counterproductive, it's costly and makes no sense, and I would urge us to have some way for that to be done.

And lastly, let me say if I might, that it seems to me that we have rules and these rules are frequently waived by the Rules Committee in the budget process. And I understand there's good reason for those waivers to take place, but I would suggest that on an annual basis that the Rules Committee be instructed to report to the House of Representatives all the waivers that have taken place in the budget process during that year and the impact that those waivers have had on the process, so that the Congress and the public can, indeed, review how we are complying with our own rules and what impact the waivers have had.

Mr. Chairman, I would ask that my entire statement be made a part of the record and I would be pleased to answer any questions you might have.

[The prepared statement of Ben Cardin follows:]

PREPARED STATEMENT OF HON. BENJAMIN CARDIN, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF MARYLAND

Thank you, Mr. Chairman. I am pleased to be here today to discuss the important issue of reforming the congressional budget process.

As the Chairman of the Democratic Caucus Committee on Organization, Study, and Review, I am well aware of the strong feelings of many members on my side of the aisle regarding the inefficiencies of the current budget process. Many of our members have been aggressive and creative in proposing reforms that will address the problems that have plagued us in this Congress as well as other recent congresses.

While the thoughts I will present here may reflect some of the deliberations of the Committee on Organization, Study, and Review, I do not offer this testimony in my capacity as Chairman of that panel. Rather, I am here today as an individual member of the House concerned about the problems in our budget and appropriations process.

The problems of the past year led me to introduce two separate measures that would help prevent future difficulties. H.R. 2622, which I introduced last November, during the crisis brought on by the breakdown of the budget process, would do two things.

First, it would convert the budget resolution from a concurrent resolution of the Congress into a joint resolution that would require the President's signature and have the force of law. As we all remember, the budget crisis last fall led to repeated government shutdowns, with interruptions in services to millions of Americans and uncertainties for hundreds of thousands of federal workers.

At the root of the crisis was a disagreement between the Congress and the President over big ticket items in the budget. The Congressional leadership attempted to gain leverage over the President by attaching extraneous, irrelevant, and controversial provisions to such "must pass" legislation as the continuing resolution and the debt ceiling bill.

H.R. 2622 is designed to prevent future threats of "train wrecks" by bringing the President into the Congressional budget process at an earlier point. Currently, the

President is required to submit a budget at the start of the calendar year. Congress then spends the next few months working on its own budget resolution. The Congressional budget resolution is a concurrent resolution of the Congress, which does not have the force of law.

By converting the budget resolution into a joint resolution, we would make the President an active participant in the congressional budget process at a much earlier stage. Rather than sending a budget up in February and then withdrawing until work begins on reconciliation, the President would have an incentive to work with congressional leaders—and vice versa—long before the start of the new fiscal year in October.

The budget resolution can never be more than a blueprint for federal spending. The thousands of individual programmatic decisions on spending must be handled in the appropriations process. But by making the budget resolution a joint resolution, and giving the President the power to sign it or veto it, we would force the tough negotiations between the two branches of government to begin in earnest before we reach crisis stage. The result would produce a government that functioned more efficiently.

In addition to the change in the budget resolution, the bill would also address the issue of increasing the debt ceiling. Even more serious than the crisis of shutting down federal agencies, last fall we flirted, unwisely in my judgment, with the idea of risking the creditworthiness of the federal government.

Never in the history of our country has the federal government defaulted on its financial obligations. I would propose that we seek to preserve that record by automatically increasing the debt ceiling with adoption of the budget resolution.

The fact is that once a budget has been approved, and signed by the President, the amount of debt that will be incurred has been established. It makes no sense to require a separate vote to raise the debt ceiling. Passage of the budget sets the deficit or surplus, and the amount, if any, by which the debt ceiling will need to be increased. Once Congress has approved a budget, and agreed to a budget deficit, it is at best grandstanding, and at worst grossly irresponsible, to refuse to raise the debt ceiling.

Nobody benefits when the Congress and the President are at loggerheads and the nation's fiscal credibility hangs in the balance. The American people are sick and tired of the gridlock in Washington.

Last fall's crisis was of our own making. The measures I have outlined here will help prevent it from recurring in the future.

The point of these changes is to treat the budget process seriously. Along the same lines, we should put real teeth in the current requirements that the budget be approved by a date certain. The Budget Act of 1974 requires that the conference report on the budget resolution be approved by April 15. As you know, the two houses of Congress have met that deadline only once in the past decade.

We should amend the rules of the House to prevent the House from going out of session if the budget resolution has not been approved by April 15. The decisions we make in the budget resolution set the parameters for the principal fiscal legislation for the remainder of the session of Congress. We should take our responsibility seriously to get the resolution done by the deadlines established, and not leave town in the spring until we have met that responsibility.

The same principle should apply to the passage of appropriations bills. Last fall the American people were appalled as Congress went into recess during a partial shutdown of the federal government.

House Resolution 332, which I introduced on the first day of this session, would prevent the House from recessing or adjourning if appropriations had lapsed for all or any part of the federal government. Mr. Chairman, under the Constitution of the United States, the "power of the purse" resides here in the Congress. To exercise that power responsibly, we must stay here until our work is done, making the tough budget decisions, and resolving our differences.

We could provide further assurance that our differences here do not result in government shutdowns. Each appropriations bill should include an "automatic continuing resolution" provision. Should the fiscal year end without a new appropriations bill having been enacted, the spending levels provided in the expiring bill would continue in effect until a new bill is approved.

The rules we have adopted to enforce the provisions of the budget resolution work only as well as let them. That is, the frequent waivers of budget rules undermine the process and can make it more difficult for us to accomplish the fiscal objectives of the budget resolution.

It is also true, of course, that waivers of budget rules are frequently necessary to permit the institution to function. We need a better understanding of the impact



of waivers of the budget act. We should require the Committee on Rules to submit an annual report on waivers of budget rules it has granted.

Mr. Chairman, I appreciate the opportunity to appear before the Committee today. I look forward to working with you to reform the budget process, and I would be pleased to answer any questions from the members of the committee.

Mr. WALKER. Thank you, Mr. Cardin.

All the statements in total will be made a part of the record, and we thank you for your summations.

Mr. Sabo, questions?

Mr. SABO. Thank you, Mr. Chairman.

Let me ask Mr. Castle and Mr. Visclosky—not Mr. Cardin, because he didn't deal with this issue—and it relates to emergency spending in very specific gaps.

Would both of you reflect on, the two big emergencies we've had in recent history? We have some little ones, but their total impacts are relatively minor in comparison to the entire budget. But we've had two huge spending categories that were classed as emergencies or were outside the normal budget. One was the whole savings and loan rescue of making sure that people's savings were guaranteed, and the second was Desert Storm, which involved a significant amount of money. A significant part of which we simply advanced and were later reimbursed from our allies, but we still had to have the money upfront.

Would either of you suggest that those should not have been handled in that fashion?

Mr. CASTLE. I'm not sure I would suggest that, Mr. Sabo, that they should not have been handled in the fashion they were. I have my own thoughts about the savings and loans and some of the work the States did and I think the States were never asked to do what they should have done either, but that's a whole different question.

I am cognizant of the fact that if you have appropriated emergency funds in the range of normal emergencies, which is \$4-to-\$6 billion over the last ten years we have calculated, that you are going to have years in which you are going to have potential warfare, Gulf Storm is one of those, or something real extraordinary, such as the savings and loan. And I think if it is a relatively limited emergency, say, it's a military action of a lesser nature and you could do it by other cutting and bring it back within the budget limits, I think that should be done.

As I said, I endorse Sam Johnson's proposal of looking back the next year, if that could be done. But there are times in which we would have to set this aside. But Congress would have to actually set it aside, we would have to act affirmatively to do that. I don't think there's anything wrong with that. It would just be a separate mechanism.

Mr. SABO. I think in both cases Congress voted for the money.

Mr. CASTLE. Precisely. And I don't have a problem with that. I'm not suggesting that it should not be spent in that circumstance, nor should we absolutely limit it so that Congress could never do that. I am trying to encompass the majority of the emergency appropriations that happen on a regular basis, usually weather related or something of that nature, so that we would have mechanisms to ensure that they were within our budgetary process.

And I don't, frankly, enjoy the emergency bills that go through with riders on them and without the necessary accounting which is really there. But I'm not trying to suggest that we would cut off those things which are fundamental and essential. We had to support the banking system and, obviously, we have to support our military circumstances in some instances.

Mr. VISCLOSKEY. Mr. Sabo, I would also agree that you ought to ensure that you have the mechanism where you have an emergency, a national crisis that has to be dealt with that you do have room to maneuver. I don't think any of us are inclined to act mindlessly pursuant to these types of formulas. That's why my bill contains a rainy-day fund, which would provide budgetary flexibility during times of economic crisis or war.

On the other hand, everything we have tried in the past, given the lack of political will in the past, to approach a balanced budget would lead me to believe that as a starting point for the debate that the caps have to be very hard and they have to encompass all of the possibilities.

I think one of the reasons in the past Congress this legislation that I have introduced has had trouble attracting co-sponsors when it was introduced by Mr. Panetta and Mr. Penny and now, myself, is that we do have hard and fast rules as far as entitlements, and also taxes. If you would come to a point of sequestration on that nondiscretionary side, the ratio would be \$4 of savings from entitlements for every dollar of increased taxes.

Generically, some people are rabid about the entitlements, and some people are rabid about taxes. I would want it, initially, to be so draconian and hurtful that people would exercise responsible judgment and not impose sequestration on the country.

This is a starting point and I do think if it would be adopted, you would certainly have to provide for some emergency contingencies.

Mr. WALKER. Mr. Inglis?

Mr. INGLIS. No questions, Mr. Chairman.

Mr. WALKER. To Mr. Castle, the proposal on emergencies strikes me as one that is attractive. The actual amount of money that you point out is about 1 percent of the total Federal budget. Would it make any sense, in your view, that rather than setting the money aside in one account, to simply set aside 1 percent of each of the appropriated accounts for an emergency basis? And then assure that that money was available, was rather fungible across accounts if the Administration actually needed it.

And, thereby, assure that you had the money to spend that had already been appropriated?

Mr. CASTLE. On the face of it that appears to be a perfectly valid suggestion to me. There might be a certain semblance of fairness to it, too, in terms of the budgeting process, which is appealing.

Yes, I have no problems, especially the fungible aspect of it, because chances are it will all go to one, two or three different outlets before it's all said and done in terms of the emergency. I think that makes a lot of sense and it's an interesting suggestion. If I think otherwise later, I will get back to you in writing.

Mr. WALKER. But your prime problem here is you just want to make certain that there is money set aside as basically a rainy day account that we have to draw upon at a time of emergency.

Mr. CASTLE. Precisely. It doesn't take much of a study to show that we have emergencies almost annually, probably annually actually and probably several of them on an annual basis and we are making expenditures. And we don't seem to have a system by which we make the expenditures, the emergency appropriations. Other things slip into it. It just seems to me to be a very sloppy budgeting process, particularly in a time, when frankly, we are reducing our budget.

I think it is one of the major reasons I ran for Congress. I am delighted with what is happening and I think Republicans and Democrats, alike, can rejoice in some of that. But I think as we get to the point of starting to reduce the deficit we should look at tightening processes. I like all the suggestions I've heard here today and some of the others I've read about.

I just think this is a good way to go. Absolutely no criticism of this committee. This committee has been outstanding in terms of its pursuing with great desire its goal to try to balance the budget. But if there are mechanisms that we can throw in, particularly there maybe, you know, Congresses down the road or Administrations down the road who are not as inclined to do this. So, I think this is a good time to adjust these things.

Mr. WALKER. Mr. Cardin, I think the reason why the President wasn't put in the loop in the original Budget Act was because with a veto he could, in fact, keep Congress from engaging in the appropriations process. Now, I mean have you had, you know, do you have some suggestion as to how we could assure that the President couldn't simply stop the entire budget process and then keep us from meeting the deadlines that you endorse in your other piece of legislation?

Mr. CARDIN. That's a good question. And by having the resolution signed by the President it is not envisioned that the failure to enact would prevent Congress from going forward with its budget work and its appropriation work.

What it does though is set the discussions and parameters a lot earlier in the debate where you have to focus in on it earlier. It would require us to stay in session if we don't finish our work. And if that means, at the end of the day, we don't have an effective appropriation bill in place in order to keep Government open, then we must stay in business. But it would not require us, if we met our deadlines, to stay here if we were in disagreement with the President.

We would have a veto outstanding, we would have to negotiate and work with it, but at least there would be the markers put down a lot earlier by both the President and Congress and hopefully we would be working to resolve those differences before September or October.

Mr. WALKER. Well, if you had a joint resolution would you or would you not have a budget resolution if the President refused to sign it?

Mr. CARDIN. You would not have a budget resolution but you would still have your allocations as I understand the budget committees work. They still can go forward and do some work.

Mr. WALKER. Well, that's where I would get puzzled. I mean if, in fact, you did not have a budget resolution that had been enacted

because of the Presidential veto, I don't know what authority you would have at that point to actually go ahead and make the allocations to the appropriators.

Mr. CARDIN. The sole reason for having it—the way that I envision the legislation being drafted it would not prevent Congress and the committees from going forward. The sole purpose for having the President's signature on it legally is to raise the debt limit. That is the sole reason for the President's signature which you need.

The other reason for having the President sign the budget resolution is to have an agreement on the outline of the budget resolution for the country and the parameters of the budget. But, legally, as you know, the spending comes through the appropriation bills and that would require the President's signature.

So, it's not envisioned that the failure of the President to sign a budget resolution would stop the work of Congress and moving forward on its budget plan.

Mr. SABO. Mr. Chairman, would the gentleman yield?

Mr. WALKER. Yes. I think the House can always proceed because we have the rules committee that waives the Budget Act. So, we can assume a House passed budget resolution as being the 602 in all occasions when appropriations move. There are unique problems in the Senate and I never fully understand their rules. They don't have a rules committee and there are certain times they can move outside of the Budget Act with 60 votes and other times with 50 votes. But it's clear that it requires at least 50 and, in some cases, 60 for them to operate absent an adopted budget resolution.

So, there are some unique hurdles in the Senate, unlike the House.

Mr. CARDIN. I assume that the bill would be tailored to meet the Senate's needs in that regard. And we are not trying, again, to hamper the work of the House of Representatives and the Senate in getting its budget and appropriation bills carried forward, but what it's intending to do is to get the Congress and the White House focused in on their differences a lot earlier and legally be able to raise the debt ceiling once there is total agreement, signed by the President.

Mr. VISCLOSKEY. Mr. Walker, if I might just comment for a moment. I would agree with Mr. Cardin that you should bring the President in early, whoever it is, and get that person's fingerprints on this particular document. In the legislation I've introduced we have tried to meet, at least from a House perspective, the contingency that the President would not sign the bill for whatever reason.

If the President signed the bill and each committee had its allocation—and now specifically I would be talking about the entitlement and tax portion—if committee A met their responsibility and met their target they would be fine. If the second committee refused to play ball, if you would, then they would have their accounts uniformly reduced.

If the President refused to sign a resolution you essentially have a self-enforcement mechanism that would have across-the-board cut on a percentage basis to meet the targets in the bill of the entitlements as well as the modest tax increase. And, again then, ev-

everybody would be held responsible for not reaching that agreement but you could proceed.

Mr. WALKER. Let me tell you my concern on it that you know this may be good or bad, but my concern would be that what you would end up with is budgets being done with no specificity whatsoever. That the way you would bring the President in would be on strictly macroeconomic numbers, that you would add no specificity to what those numbers meant because then you would get into the policy arguments with any Administration about whether or not their specifics were the right ones or whether your specifics were the right ones.

And so, what you would end up with is a budget process that dealt purely with very, very large numbers that the Administration could naturally sign on to because there would be no specifics on it, and that the Congress then would immediately, you know, go to the appropriations process for the specifics, where it actually takes place anyhow. I understand that but it seems to me that the kind of specificity with which we have attempted to write budgets, both Democrats and Republicans, would get lost in the budget process and I'm not so certain that is a healthy outcome.

Mr. CARDIN. Well, if I may make a comment. I think that is more of an internal problem within Congress, than a problem between the White House and Congress. I do think it is the macro issues that are a major concern early in the game. By having the President sign off on the blueprint it certainly does not mean the President won't veto individual appropriation bills and we might not have a problem because specifics will become contentious at times.

But we have our internal struggle between the appropriations committees and the committees that need to reconcile to the budget and the specifics that are in the budget resolution. We are not going to avoid that problem.

I don't think that the White House adds a complication to it. It's not going to feel, I think, intimidated to veto a future bill if some of the specific provisions in the budget resolution are against their particular position. We will be focusing more on the overall blueprint at this stage more so than specific issues.

Mr. WALKER. But insofar as you are having the President sign the document and if you have a document that is based upon a specific set of objectives—in other words, you have outlined at least with some specificity what this number, this macro number means, and the President is signing—it seems to me that his signature at that point is far more of an endorsement of the specifics within the budget than maybe he would like to make early in the process.

Mr. CARDIN. Well, I've seen many members vote for a budget resolution and then vote against specific implementing provisions.

Mr. WALKER. That's true.

Mr. CARDIN. And these are issues that we'll be debating about but, at least, it moves the process I think a little bit earlier.

Mr. WALKER. True.

Mr. CARDIN. Again, the legal impact would not prevent the President from vetoing individual bills that come to his desk.

Mr. WALKER. True, that's correct.

Mr. Sabo?

Mr. SABO. If I might just follow-up and I'm not sure what I think of it. Initially, I prefer to keep it simply legislative but I'm open. It would mean discussion early on; now we have budget resolutions that we don't spend that much time analyzing, that have economic assumptions from CBO. Clearly, OMB does the economic assumptions for the President and we've been through this crazy game lately. And OMB does official scoring.

That would mean that Congress with the backup of CBO, and the Administration with the backup of OMB, would have to negotiate joint economic assumptions for that joint resolution.

And that might be a plus or a minus, I don't know. But it would be intriguing to watch.

Mr. WALKER. That surely would be very useful. It would also seem to me that it would cut down on the number of amendments offered in the budget committee.

One other question, primary to you, Mr. Cardin. George Gekas has a proposal in that essentially says that if you don't complete the appropriations work by the beginning of the fiscal year, you get an automatic kick-in of a continuing resolution. And I mean he has some specifics. It is the lowest of the numbers between the House and Senate, you know, the typical thing we go through on continuing resolutions. But instead of having to pass a continuing resolution that then stands the chance of being loaded up with policy issues and so on, you would simply have an automatic kick-in and so on.

Would that fit with some of the concepts you are talking about here?

Mr. CARDIN. Absolutely. I would support that. I think having an automatic formula is useful so that we don't go through a Government shutdown which, to me, is counterproductive. So, I would support that process and I agree, I don't think there should be an ability to put anything at all other than the ability for Government to continue.

Mr. WALKER. Thank you.

Any further questions, Mr. Sabo?

Mr. SABO. No.

Mr. WALKER. Thank you very much, we appreciate your testimony before us today.

The committee will stand in recess until 2 o'clock.

[Recess.]

Mr. MILLER [presiding]. Mark Neumann will be running a little late, so we will go ahead and get started.

So would you like to start, Mr. Horn? Who would like to start?

Mr. HORN. Thank you. We are in the middle of a hearing, so I would like to get back to it, if I might.

Mr. MILLER. Please. Okay.

#### STATEMENT OF HON. STEPHEN HORN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HORN. Let me just briefly summarize some of the points. As you know, the Committee on Government Reform and Oversight shares jurisdiction on a number of budget reforms. We have exclusive jurisdiction on the financial management aspects, and I think as you know, Mr. Chairman, out of this committee has come the

unfunded mandates reform of 1965, the Information Technology Management Reform Act of 1996, the line item veto, which is going to take effect, whoever is the next President. The Debt Collection Improvement Act of 1996, which will turn out to be one of the most significant things we have done, to collect the billions of uncollected debt that is in the Federal Government.

I do not know if you are aware of it, but the IRS, since 1990, has written off, if you will, \$100 billion of debt. That is what first got me excited about doing something in this field.

And I have about \$64 billion that they say is collectible, but they just do not know how to collect it. So we are trying to get them to use private collectors, like the rest of the world uses, to collect these debts.

And Nancy Johnson, who heads the Oversight Committee of Ways and Means, is doing a fine job bringing in a parallel bill to what was my own legislation for the rest of the Government, but IRS you handle especially here.

And then the Single Audit Act of 1996, which we just passed recently, and that will simplify life for grant recipients around the country.

I will not get into all of the points I want to make, but let me just say, in our review of both Government management, of which we have held over 35, going on 40 hearings, in the last year, and our specific hearings on budget process reform, in the course of it we ask the Congressional Research Service to use its fine experts and pool together a lot of information for us.

And you might well have these, but I would just like to refer to them. If you want to make them a part of the record, why, please do.

One is updated as of July 16th, 1996, entitled "Federal Budget Accounting and Financial Management Laws: Summaries of Selected Provisions."

One of April 16th, 1996, is the "Budget Process Reform: Selected Issues and Options."

And a shorter memorandum, this from Sandy Streeter, analysis in American National Government in CRS, on the congressional budget process timetable. And I am going to spend a little time on the timetables.

I think we need to seriously consider the dates we use. We only bat one out of 10, as in the last 40 years. What we are going to do—let us hope we do better this year—but our predecessors that have run the Congress for 40 years, they have only batted one out of 10 in making the dates that we all set up several decades ago, thinking that Congress could meet.

When I was a young staff assistant here, the fiscal year started July 1st. But since they never got anything done, they said, "Gee, why do not we make it October 1st? Then we will be sure to hit it."

And of course we made it October 1st, and a lot of the committees still cannot get it done. So the old story of time expands to fill the time allowed, certainly we prove it every day here.

But we need to get it running on time, and I think—I never used to—30 years ago, I would have been dead set against what I am

about to say, because smaller State legislatures were the only ones that were doing it.

And that is to do your serious appropriations every two years, and use the off-year for oversight. The fact is the Appropriations Committees, and most of the authorizing committees, simply do not have time for due diligent oversight because they are consumed with the detail of what they have to do as authorizers.

And as you know, Mr. Chairman, when we came into power here in January 1995, we found dozens of agencies whose authorization, unknown to 99 percent of the House, their authorization had expired.

And we now face trying to pick up the pieces, since no one had ever told us this had happened, and they simply went into the Rules Committee, and said, "Oh, we will get a waiver on the rule. So what if they do not have an authorization?"

And as you will remember, the classic, the then-Chairman of Judiciary would come in, and he would be asked, "Well, what are the points in the bill that you are waiving, Mr. Chairman?" and Mr. Brooks would reply, "I do not rightly know, and even if I did, I do not think I would tell you." Unquote.

So, in a sense, we are operating in the dark, and while we did the first audit in the history of Congress, we have got a lot more to do in our oversight of the executive machinery.

Now the Government Reform and Oversight Committee, that is its particular task. But no matter how hard our subcommittees work, and some others have also held 35 and 40 hearings this year, on oversight, we really need the authorizing committees and the Appropriation Subcommittees to be doing their share of oversight.

They would be better informed as decision makers if they got out around the country, looked at some of the agencies they are funding and spent a few weeks just going through it and seeing how the clients feel about it.

And that is one of the things we stressed this year in our committee, which is how are the States doing reform, and what are the countries that are ahead of us in reform?

We are not even in the top dozen. We might just make twelve. The number one reform Government in the world is New Zealand. Number two reform Government in the world is Australia.

Who started the reforms? It was not the conservatives. It was the socialists. Why? They were going broke. They had entitlements. They couldn't cover all of those entitlements, and they started reforming the Government. And they built in incentives for performance by executives.

The Alan Greenspan equivalent in New Zealand, for example, gets \$250,000 a year, provided he keeps inflation at 2 percent or less. If he lets the economy, through monetary policy, go beyond that, why, goodbye to him and goodbye to his salary, for sure.

So we need to think of incentives and we need to do this type of oversight to see what kind of incentives would work within the Executive Branch.

And let me just note that one of the things we ought to be concentrating on is how do you facilitate and enforce congressional decision making.



And that gets down to the gap between what we think we have done, and we have plastered over some decisions with euphemisms to get it through here, to build a consensus to get a majority, to get through conference, and the regulators look at it and say, "What do these people mean?"

Well, we really do not know. No legislative history maybe. So we will just write the regulations the way we want, and we have got to get much tighter control of what the regulations are because most of us have never dreamed they would go that way when we wrote the original piece of legislation.

Circumstances change and regulations change. We need to control the mandatory spending, without question.

I still am very committed, as you know, Mr. Chairman, since we came here together, to the idea of the freeze as solving some of these problems.

But we have Federal court decisions that say, wait a minute, you cannot just freeze the budget. You have got to go back to the basic authorization and if you gave an entitlement, you have got to change the ground rules in that authorization to give specific instructions to the Cabinet officer, the agency head, as to how those accommodations will be made.

And I think we ought to do that in generic language by certain types of formula and category, so that we can deal with some of the entitlements. And as you know, we are talking two-thirds of the budget when we are talking entitlements.

We have gotten more and more control, thanks to this committee, and the authorizing and appropriating committees, on the discretionary funding.

We need to expand the budgetary information and I would just as soon file all this for the record—better manage the fiscal and debt management. As I say, we should not have to have instances like IRS with \$100 billion foregone since 1990.

Improve financial management and accounting. I have held a hearing on what did the Pentagon do with \$25 billion. Well, that is billion with a b, Mr. Chairman, not Florida, California stuff, in the millions. And it is just floating around over there somewhere. They cannot quite find it, they do not think anybody stole it, but they cannot relate their purchasing records to their inventory records. Why? They have 49 separate accounting systems in the Pentagon.

Secretary Forrestal, the first Secretary, should have dealt with that. He did not. So here we are, 40, 50 years later, and we have got to deal with that. And we need to fully implement performance budgeting, and this is where Oregon is leading the way, South Carolina is leading the way, Minnesota is leading the way.

The Federal Government needs to get benchmarks, so we know what this money is doing. Is it meeting client needs?

And the rest of it, Mr. Chairman, the staff can read, but those are some of the overall points. The freeze is the way governors solve their budget deficits. Congress has stayed away from that, some because the press does not like it, I was told by one leader of Congress.

This is nonsense. The question is does it get results. In California, when Governor Dukmejian inherited a \$1 billion deficit from

Jerry Brown, unheard of in the history of the State, in 45 minutes he solved it.

A mandate went to every State official, and I was one then, that please give me 2.5 percent of your budget for this year. Half the year was gone. Government is intensive labor. So we had to give him 5 percent of our budget for the last half of the year. But the deficit was done in a snap of the fingers. We got in, we dug out what you did not need to do, froze equipment, froze personnel hiring, et cetera. Froze travel.

The things that executives do to try to turn an agency around. It is what the private sector does. We ought to be doing that in the Federal Government sector.

[The prepared statement of Stephen Horn follows:]

PREPARED STATEMENT OF HON. STEPHEN HORN, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF CALIFORNIA

Thank you for inviting me to testify today as Chairman of the Government Reform and Oversight Committee's Government Management, Information, and Technology Subcommittee. We have a common interest in the Federal budget process, financial management, and accounting procedures. I look forward to continuing to work with the Budget Committee to revitalize our Federal budget system and financial management processes.

Today, I will present a framework for rebuilding our Federal budget system and financial management processes. This framework is based on the research, analysis, and testimony of dozens of Congressional Research Specialists (CRS); think tanks like The Brookings Institution and The Heritage Foundation; other groups interested in a better working Federal government—The Financial Executives Institute, 60Plus, Citizens for Budget Reform, Citizens Against Government Waste; chief financial officers of the departments and agencies; senior executive branch managers; and members of Congress like yourselves that have a common commitment to a more efficient and effective Federal Government.

During the 104th Congress, my subcommittee has held over 40 hearings on these matters. Recently, 3 days of hearings were held to review a draft Omnibus Budget Act which includes dozens of recommended budget process and financial management improvements. This bill's aim is to build on the substantial progress that has already been made in the 104th Congress.

In this Congress, five major budget and financial management bills have been enacted into law. They are—The Unfunded Mandates Reform Act of 1995, The Information Technology Management Reform Act of 1996, Line Item Veto Act of 1996, Debt Collection Improvement Act of 1996, The Single Audit Act of 1996.

According to a recent CRS Report which I commissioned—"Federal Budget, Accounting, and Financial Management Laws,"—these bills along with 15 other acts serve as our Federal budget and financial management framework.

So much for the good news. The bad news is that the Federal government has a failing budget process and lacks a fully functional financial management system. Our committees are directly responsible for making the required improvements.

*Federal Budget Process and Financial Management Reform*

The Congressional Research Service, at my request has produced a report, "Budget Process Reform: Selected Issues and Options," that summarizes the actions that should be considered as we reform the congressional budget process and upgrade Federal financial management systems. Should we use a Joint Budget Resolution, automatic continuing resolutions, biennial appropriations and budgeting, sunset requirements, capital budgets, emergency funds, improved debt collection, performance goals and measures, and evaluations? These are just a few of the options to be considered.

KEY CONGRESSIONAL BUDGET DATES

Chart 1

Date	Organization/Action	1977 to 1996 "On Time" Performance
April 1 .....	Senate Budget Committee Reports Budget Resolution .....	6(30%).

## KEY CONGRESSIONAL BUDGET DATES—Continued

Chart 1

Date	Organization/Action	1977 to 1996 "On Time" Performance
April 15 .....	Congress Completes Action Budget Resolution .....	1(5%).
June 10 .....	House Appropriations Committee Reports all Bills .....	0(0%).
June 15 .....	Congress Completes Reconciliation Bill .....	2(10%).
June 30 .....	House Completes Appropriations Bills .....	1(5%).
October 1 .....	Congress Completes Appropriations Bills .....	3(15%).

It is well known that Congress needs to improve the way it budgets. What we don't have is a good handle on how to link our poor performance with needed reforms.

Two key performance measures for Congress' budget process are—the balance between spending and revenues and meeting budget process deadlines required by public law.

We are all well aware that the basic budget formula—Federal revenue minus (–) spending has not been in balance for over a quarter of a century—the longest continuous debt streak in American history. I view this streak as abysmal financial management. Congress and the President have failed miserably. We are now committed to turning this around by 2002. I hope we can do it even sooner than that.

Congress rarely meets budget process deadlines established by law. Deadlines for completing budget resolutions and appropriations and reconciliation bills have been missed over and over again during the last 20 years. According to a Congressional Research Service's study of the "Congressional Budget Process Timetable," Congress is meeting deadlines only 1 out of 10 times. In baseball terms, this is a 100 batting average. Today, batting 100 doesn't even keep you in the minor leagues.

"Key Congressional Budget Dates" are presented on Chart 1.

What can we do to up our "batting" average? Two things need to be done. One, realistic deadlines must be established for the important tasks. But the bottom line is that making the "trains run on time" so to speak is not enough.

This leads me to the second part of the solution. We must simplify and make more rigorous the budget, authorization, and appropriations processes as we encourage more systematic committee oversight. These processes emphasize budget accounts with limited review of program performance and outcomes. We are moving into a new era. By Fiscal Year 1997, all departments and agencies will be required to produce annual audited financial statements. The management control process will be expanded to link the traditional budget accounts with performance measures and accountability reports. Agency-by-agency and department-by-department we will move beyond knowing how Federal dollars were spent to knowing—how satisfied the citizen customer is, if Federal agencies lines of business are performing up to private sector standards, and if generally accepted accounting principles are being met.

One of Congress' greatest failures is its lack of oversight. Oversight activities are the "currency" by which Congress can "purchase" a better America. A major effort should be made to improve our oversight performance.

The demands placed on members and staff by constituent service, campaigns, the press, and the daily legislative business have caused our oversight activities to atrophy. As I see it our major responsibility, as members of Congress, is to make sure that the citizen gets value for each tax dollar and "A number 1" service. Unfortunately this is not happening today in far too many programs. Improved congressional oversight is key to turning this around.

Many members, including members of this Budget Committee, are committed to constructive reform. Earlier this year, my subcommittee drafted a Omnibus Budget Act outline. This Act presents dozens of proposed reforms—some sponsored and co-sponsored by members of this committee.

The key to successful reform will be keeping it simple and establishing realistic deadlines and procedures as well as encouraging more active, systematic congressional oversight.

Recently a core group of members have refined the Omnibus Budget Act. I ask that you review the original draft and our recently revised version. It is not too late, in this Congress, to make key changes.

## CONCLUSION

It is clear that we must act to reform the congressional budget, appropriations, and authorization processes in order that we might—better facilitate and enforce congressional decision making, control mandatory spending, expand budgetary information, better manage Federal fiscal and debt management, improve financial management and accounting, and fully implement performance budgeting.

It is clear that we must work on a bi-partisan basis to simplify and fully implement department and agency financial management systems that fully satisfy generally accepted accounting principles.

It is clear that the Congress must take its oversight responsibility seriously. It is clear that accomplishing these tasks will not be easy.

I am confident that the Budget Committee will give its full support to meeting these challenges. Thank you for listening to me.

Mr. MILLER. If you do not mind, we will just go ahead and ask some questions since you have to get back for a hearing, is that right?

Mr. HORN. Right.

Mr. MILLER. Since, as you said, we only really have, on the discretionary side, only one-third of the budget to work with, and when you start trying to put a freeze on entitlements, you are in a much more complicated issue of a reconciliation bill. So you really do not have a large amount of discretion of flexibility when you only have a third of the budget to work with.

Since I sit on Appropriations, I find it almost overwhelming, at times, the number of different programs you have to deal with.

We have a 1,000 programs under my one subcommittee I am on, and you know, how do you have oversight over a 1,000 programs?

Mr. HORN. You just do it selectively and carefully, and you maybe do that extra year to do that. If we experiment with that idea. Maybe we take two subcommittees of Appropriations and say you appropriate for a 2 year period. Next year you spend on oversight. See if it works. As I said, I was very dubious about that 30 years ago. I am not dubious about it now. I think we need to give it a try. But we do not need to do it massive. Let us start with a couple and see how it works, see if they cannot devote the resources, we all get together and coordinate our oversight function, the authorization function, the appropriations function, get our staff going out, working as a team, one or two Members with them, on a Monday or a Friday.

Some of them will not like it. They would like to be in their district. Well, that is great. Put the ones in safe seats to go out and do the oversight then. But we need to do it and we need Members to feel is and see it, if they are going to make a decision.

Mr. MILLER. Let me just go around and see about some questions and we will have a discussion.

Ms. Myrick.

Ms. MYRICK. I do not have any questions, but those are good suggestions. Thank you.

Mr. HORN. Thank you.

Mr. MILLER. Mr. Olver? Ms. Rivers?

Ms. RIVERS. No, thank you.

Mr. MILLER. Mr. Largent, you are on the committee, too. Do you have a question or comment, or do you just want to wait for your—

Mr. LARGENT. No.

Mr. MILLER. Mr. Horn used to serve on the staff of the Senate back in the 1960s, is that right?

Mr. HORN. That is true.

Mr. MILLER. Mid 1960s, back in the days of Medicare, when you were fresh out of graduate studies or such, so—

Mr. HORN. And I wrote a book on the Senate appropriations process, and one of the things, which will never happen here, or there, is to consolidate Appropriation Subcommittees, because I would want it in five—what do we have? 13 now. That would mean eight people would not be cardinals. They would be monsignors, or maybe priests. [Laughter.]

But the fact is the Executive Branch consolidates and coordinates an executive budget in five operating divisions of the Office of Management and Budget. And they have got the right pieces pulled together. They send us a consolidated budget, a unified budget, where decisions have been made, and we chop them up into 13 pieces.

We have Foreign Operations separate from National Security, separate from the Department of State. Now why do not we get them all in one tent, which is what they do downtown, so we could look at the whole, not just the little fragmented pieces?

Mr. MILLER. I think some of that may be under discussion, about some changes in the appropriation process with 13 subcommittees, and some are very large and large amounts of the budget, such as Labor, HHS. And then you have—we are going to approve a couple smaller ones this afternoon yet. And they could just be easily consolidated into a smaller number. I think you are right.

Mr. HORN. Until we got into power in January 1995, the greatest reforms of the 20th Century were by the 79th Congress, in 1945–1946.

That was a Democratic Congress, the so-called La Follette–Munroney bill, Republicans, Democrats, Democrat–Munroney was a Democrat, La Follette was a Republican. And that reorganized this place, consolidated dozens of committees. How they got away with it is a very interesting story, but somebody just played God, is what it got down to.

And the result was when the Republican 80th Congress came in, with the 1946 election, they benefited from that.

And a lot of the ideas we had now, they had then. They didn't think they worked too well and one was bringing Ways and Means and the appropriators together in what your Budget Committee does, reconciliation.

They all got on the floor of the House and nobody quite knew what to do, and they did it a couple years and then forgot about it.

But the fact is they did consolidate committees, and that was a great help. And then of course in the 1970s we had the proliferation of subcommittees.

And you have got the things out of the barrel again, need to sort of stuff them in, a little coordination. And at last, with the change here, we got jurisdiction of things that should have been in committees 40 years ago.

But you had a powerful Chairman who said you will do it over my dead body, and numerous speakers thought it would be their

dead body, so they did not tangle with the powerful Chairman, such as Railway coming out of Commerce, going to Transportation. Such as Merchant Marine, which was a separate committee, going to Transportation. Should be in Transportation. Should have been 40 years ago.

But those are the things somebody has got to face up to.

Mr. MILLER. You obviously bring a unique perspective not only because of your experience in the 1960s, but your academic experience.

I remember meeting you, and you said you have a PhD in political science with a major in Congress, I believe, or something like that.

Mr. HORN. I did not quite say that, Mr. Chairman, but you are always fun to listen to. [Laughter.]

Mr. MILLER. Thank you.

Mr. Shadegg, do you have any questions or comments?

Mr. SHADEGG. I do not.

Mr. MILLER. Thank you. We will let you return to your meeting.

Mr. HORN. Appreciate it.

Mr. MILLER. Mr. Largent.

#### **STATEMENT OF HON. STEVE LARGENT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA**

Mr. LARGENT. Thank you, Mr. Chairman.

What I find interesting is that Congressman Horn testified of his experience of 30 years here in Congress, and here I am coming in, never have held political office before in my life, and yet we have reached the same conclusion. We both believe the budget process that is currently in place desperately needs to be overhauled.

This is not a partisan issue. It should not be. I think people on both sides of the aisle agree that the budget process is a mess and it desperately needs to be overhauled.

Let me tell you just a little bit about my first experience on the Budget Committee.

I was actually in the House gym, listening, and I overheard a conversation between our current Budget Committee Chairman, and one of the senior Members of our conference. The senior Member turned to our Budget Committee Chairman, and he said, "Kasich, are you going to make this budget where we can understand it this year?"

This is in regards to the 1995 budget. And that was a little frightening but quite enlightening, in terms of what a mess the budget process is in today.

I guess my enlightenment continued as the Budget Committee came in and wrestled around, mud wrestling, some might refer to it, trying to formulate the 1995 budget. I remember a Member of this committee asking the Chairman at the budget markup, on the 1995 budget what the "BA" and the "O" stood for on the line items within the 1995 budget that were presented to the Members of this committee.

The Member did not understand that it stood for "Budget Authority" and "Outlay", which is no surprise to me, and I am not making fun of that Member, because clearly the way we budget is a mess and nobody understands it.

I have been trying to think of a good word picture to describe why we are here talking about what I think is one of the most fundamental changes that desperately needs to be made in Congress, and we have five Members at the hearing to discuss it.

I think both sides talk a lot about how bad the product ends up being at the end of the day, at the end of the budget process day.

We always complain about the product but we never ask ourselves the question, Could it be the process that leads to a bad product?

It is a little bit like, asking the question, What time is it? We do not want you to tell us how you make a watch. Nobody wants to know how a watch is made or how it works. Just tell us what time it is.

But the fact is if the watch is broken and the gears are not working, you are not going to get the right time of day.

In some respects I think that is reflective of what we do with the budget process. We must ask the right question, and the right question is what is wrong with the process and how can we fix it?

As a newcomer, never having served in a legislative body before, and being exposed to this budget process for the first time, the first thing I was shocked to find is how we find our starting point. The only reference point I had was having lived on a personal budget myself for a long time. Here is how I start my budget process. I start with, and I know this is pretty revolutionary—but I start by asking how much money do I have. That is where I begin my budget process, and then the next question I ask myself, after I have determined how much money I am going to earn in this year, I say, okay, How am I going to spend it?

Well, we do not do that in Congress. We start with how we want to spend it. Then we ask if we have enough money to get there. And for a long time, in fact, we have not had enough money, and that is why we have a \$5 trillion debt today.

So what is wrong with the budget process? First of all, let us start with how we begin the budget process with two budgets.

The President submits a budget, Congress submits a budget, but never the twain shall meet. It does not matter what the President's budget looks like and it really does not matter a lot what Congress' budget looks like because you never really get to resolve the two differences until way down the road, in fact this year we never did get there, as we all recall.

Next, we have a set of committees in the House that do not align with the Senate committees, and whose function numbers do not match, and they do not match the President's numbers in aligning our budgets.

So again, it ends up being a very convoluted, confusing process.

Now, we have a budget where at least 66 percent of our budget is untouchable because we do not touch entitlements, save, for what took place yesterday, which was a monumental effort by this Congress to enact welfare reform.

There is 66 percent of the budget, if you assume 50 percent of the budget is entitlements, and then 16 percent of interest, which we have no control over as well, that is untouchable.

So basically what we are talking about is trying to manage the other 35 or 34 percent of the budget. That makes no sense at all.

We have to be able to have the courage to address entitlement reform and I hope that we will continue down the road that we have embarked on already.

We have the 1974 Budget Act in place, but on a regular basis we ignore it. We waive the rules. In that Budget Act, it clearly delineates time frames and deadlines for accomplishing certain things. We waive those rules. We ignore the deadlines. We act as if they do not matter at all. We have Appropriation Sub-committees that actually write checks for more than the authorizing committees authorize.

We have appropriating committees who actually appropriate money for programs that are not even authorized. That makes no sense at all. And then beyond that, we have appropriating committees that do not match up exactly with the authorizing committees.

So you have some appropriating sub-committees that have part of one authorizing committee, and then another appropriation sub-committee has the other part of that authorizing committee's responsibility.

If you looked at the hierarchy and the lines that cross between different committees—and that is not even considering what is taking place and trying to match that with the Senate, and trying to match it with the President's budget. It makes Hillary Clinton's health care plan look simplistic. It is totally convoluted and confusing, and that is really the part that I think is most alarming to me. Until we can simplify the budget process to where the average guy in the street can understand it, there is no accountability.

That is the real problem with the budget process that we have right now.

I would challenge any Member of this committee to go back home and take 15 seconds in his next town hall meeting, and explain to his constituents at that town hall meeting, in 15 seconds, OMB, CBO, reconciliation, rescission, outlays, budget authority, and offsetting receipts. It is enough to make your head spin, Mr. Chairman.

As I have been sitting in these meetings and listening to the different reforms, and I think there have been a lot of great ideas, and it really is frustrating to me. The real question, the real issue of this committee hearing is, How do we raise this as an issue and raise it to the level that it needs to be addressed by this Congress?

Because as is evidenced by the lack of participation in this committee hearing, it goes unnoticed until the wheels fall off, as they did at the end of 1995, when everybody was complaining loudly and longly that we need budget process reform.

So with that, Mr. Chairman, I would submit the rest of my testimony about specific reforms that I think would be helpful, joint budget resolutions, entitlement caps, even moving towards treating entitlements as discretionary, where we actually have to vote on it each year.

Forcing us to ask if we are going to increase spending? How much we are going to spend every year, or not? And just doing away with the phrase, "such sums as may be necessary."

I would submit the rest of my testimony and will be willing to answer any questions at this time.

[The prepared statement of Steve Largent follows:]



PREPARED STATEMENT OF HON. STEVE LARGENT, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF OKLAHOMA

Mr. Chairman, thank you for holding a series of hearings on budget process reform. I appreciate the opportunity to appear here today as part of Member's Day to share a few of my thoughts on the budget process. I believe there are many issues surrounding budget process reform that need airing and deserve a full discussion.

When I first started in Congress last year, I knew I had a lot to learn about the budget. I attended meetings of the Budget Committee with keen interest trying to absorb every bit of knowledge I could. The amazing thing that occurred to me after a few meetings was that I was not the only one in the dark about the process we call budgeting. Many more senior members, even Members who had served on the Budget Committee in past Congresses, were asking the same types of questions I had—they were learning the process just like me—a mere freshman.

I knew that many people "outside the beltway" lacked an understanding of how we budget in Washington, but I did not know the secret that many Members of Congress do not understand the steps in the budget process. Since Members do not understand it and the public does not understand it, I believe it is our responsibility to make the process more simple and understandable. The American public should be able to understand one of the most basic responsibilities of the Congress—setting a budget.

"YOUR TURN TO BALANCE THE FEDERAL BUDGET"

In order to help shed some light on how Congress goes about budgeting, I had the idea to do a full color brochure to explain the budget process and to allow the public to make choices on how they would go about balancing the budget. My good friend Jack Kemp thought this was a great idea and his organization, Empower America, created a brochure entitled "Your Turn to Balance the Federal Budget." I have submitted a copy of the brochure for insertion into the record.

The user-friendly brochure does a couple of things. First, on the cover of the brochure a black cloud is hanging over the United States of America, more specifically over an American family. This represents the budget deficit and ultimately our nation's debt ominously hanging over the future of our country. Inside the brochure there are graphics to help the average person to understand how much money is spent by Washington each year. For example, the \$4.9 trillion debt is represented by a stack of \$1,000 bills more than 300 miles into space. To understand what it means to spend \$1.6 trillion, a picture displays a second from a stop watch noting that the federal government spends \$50,736 per second. Another panel of the brochure has two graphs showing the taxes the government collects and how it spends those dollars.

To solicit input on how non-elected folks might balance the budget, the brochure contains a worksheet called "Help Congress balance the budget . . ." This worksheet contains real examples of spending in each of the functional categories we use to budget from Defense to Education to General Government. Some Members believe that balancing the budget or failing to do so is not a function of the process, but is solely dependent on the political will to do so. Yet, many of the people who filled out the worksheet found balancing the budget to be surprisingly easy. The difference is that they were not forced to go through the maze that we call the Congressional budget process. The cumbersome and complicated budget process is displayed in a flow chart on the final panel of the brochure.

When I first looked at this flow chart, I was literally shocked at all the hoops Congress must jump through just to get a budget on the desk of the president. After looking at this tangled web, is it any wonder we are facing difficulties balancing the budget? And, as we know all too well from last year, even after all this heartache on the part of the Congress, the president can then decide to veto the whole thing.

AVOIDING THE TRAIN WRECK FROM "THE FUGITIVE"

I believe the president should be involved from the very beginning of the budget process. Last year was extremely frustrating for everyone involved. The House passed its budget resolution. The Senate passed its budget resolution. We went to conference. The House passed the budget resolution conference. The Senate passed the budget resolution conference. Next, we went through some six months of the authorizing committees coming up with creative ways to meet their budget targets as passed in the budget resolution conference report. Then, the House passed its reconciliation package. The Senate passed its reconciliation package. There was a conference on the reconciliation. The House passed the conference report on the budget

reconciliation. The Senate passed the conference report on the budget reconciliation. Then, President Clinton vetoed the budget.

After months and months of work by both the House and the Senate, the President quickly and decisively vetoed the balanced budget. I believe the President should have been involved from the beginning. In February, he should have been forced by law to sit down with Congressional leaders to agree on the macro level targets for the budget. We should make the budget resolution a concurrent resolution with the force of law. I believe this simple step would help Congress to avoid train wrecks.

#### REIGNING IN ENTITLEMENTS

Next, I would like to speak to what I believe to be our most serious budget problem—entitlements. As a rule, no federal program should be on “automatic pilot.” Currently, almost half of the federal government’s budget is attributable to entitlements. Congress has control over less than half of the budget on a year to year basis. All programs—both mandatory and discretionary—should be subject to annual review and annual funding.

The idea of entitlement caps is also appealing. With caps at least there would be some accountability because Congress would be forced to look at the spending occurring in each of the programs. Perhaps we should consider caps on spending coupled with a sunset of entitlement authority over a five year period. This would impact not only the amount spent but how it is spent by forcing Congress to review and reauthorize these entitlement programs. I maintain that Congress must not abdicate its responsibility to oversee programs that consume tax dollars just because these programs are politically sensitive.

#### PLANNING FOR EMERGENCIES

Another problem we must address is “emergency spending.” In my home state of Oklahoma, our state government has a rainy day fund to help keep the state on budget. I am not saying emergencies will never occur—I know emergencies come along. But let me say that since unexpected emergencies happen almost expectedly every year, shouldn’t we “budget” for emergencies and prevent higher deficits?

We plan for emergencies in our own lives. We prepare for unexpected tragedies by purchasing insurance. We pay a premium every month and then if our house catches on fire we are protected from losing everything. Perhaps we could annually set aside the ten year average of emergency spending. I do not believe we should allow the money to accumulate if unused. If no emergency occurs, the government simply borrows less for other spending and the deficit does not go up. If we have an emergency, we are prepared and the deficit does not unduly go up and throw us off the path to a balanced budget.

#### INTERNAL CHECKS AND BALANCES

An internal problem that would be easy to fix is to stop ignoring the checks and balances currently on the books. For example, I believe the beginning of any good legislative project has to be enforceable deadlines. What good are deadlines to help the process run smoothly if everyone ignores them? In addition to upholding deadlines, we should also follow our own rules. No appropriations should be allowed without the authorizing legislation to go along with it. Also, we should not allow appropriations to exceed the amount approved by the authorizing committees.

The committee structure of the Congress is very decentralized and leads to less accountability in the budget process. Committees of jurisdiction do not line up between the House and the Senate. In the House, committees of authorizing jurisdiction do not coincide with the same subcommittee of the Appropriations Committee. Budget function numbers that are used by the Budget Committee do not correspond directly to an authorizing committee or to any particular Appropriations subcommittee. With no clear lines of responsibility—accountability is lacking.

I agree with Chairman Kasich that we must end the “budget-speak” that reigns supreme in Washington. Here in the Congress instead of talking about inflows and outflows that everyone can understand, we discuss the finer points of 602(a)s and 602(b)s, authorizing and appropriating, reconciliation, rescissions and spend-out-rates. We need to use simple language that conveys a clear message to the public. Simplicity will move us more quickly toward our goal of a balanced budget by engaging the hearts and minds of the public.

Lastly, Speaker Newt Gingrich often talks of the “Third Wave.” We are in the stone age when it comes to making budget and appropriations information available online in a digital form. Budget and appropriation data should be available in a digital format in real time. Currently, any Member can log onto the House computer

system ("MIN") and find out how he or any other member voted on a particular floor amendment by the close of business for any given day. However, Members cannot currently track program spending without going through a plethora of paper. I believe budget and appropriation information, both historical data and current information as we go through the process, should be available online. Access to accurate and, more important, timely information is key to making informed decisions.

In closing, I believe we must keep the budget process simple and understandable. I believe through simplicity we will gain accountability and we may finally gain real control over the budget beast.

Your turn to  
**BALANCE  
THE  
FEDERAL  
BUDGET**



In the year 2000,  
the federal debt will equal  
**\$6,800,000,000,000.**

That's \$26,000 per person or \$104,000 for a family of four



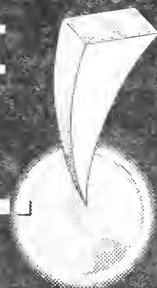
Since 1969, Washington has  
spent more money each year than it  
takes in. These deficits, added  
together make up the current

**\$4,900,000,000,000**  
**National Debt.**



\$18,800 per person or \$75,000 for a family of four

**Put it  
this  
way...**

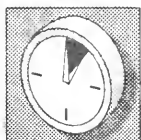


- A million dollars in tightly bound \$1,000 bills would produce a stack **four inches high.**
- A billion dollars in tightly bound \$1,000 bills would produce a stack about **300 feet high.**
- A trillion dollars in tightly bound \$1,000 bills would produce a stack nearly **63 miles high.**
- This year, the federal debt would produce a stack of \$1,000 bills over **300 miles into space!**

**With a budget of \$1.6 trillion, the  
federal government spends:**



► **\$4.4 billion**  
a day



► **\$183 million**  
an hour

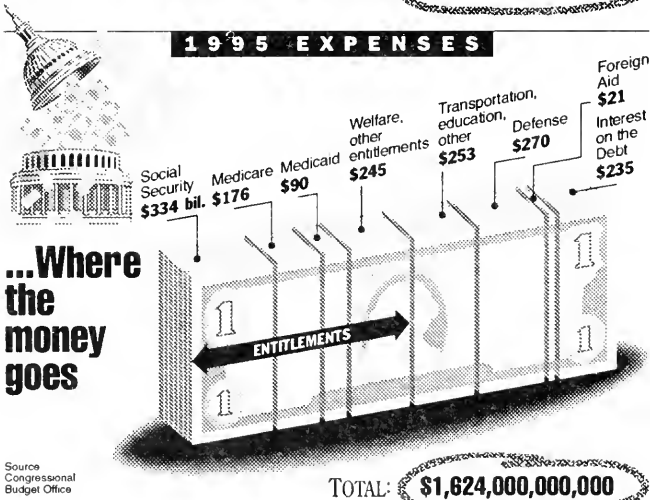
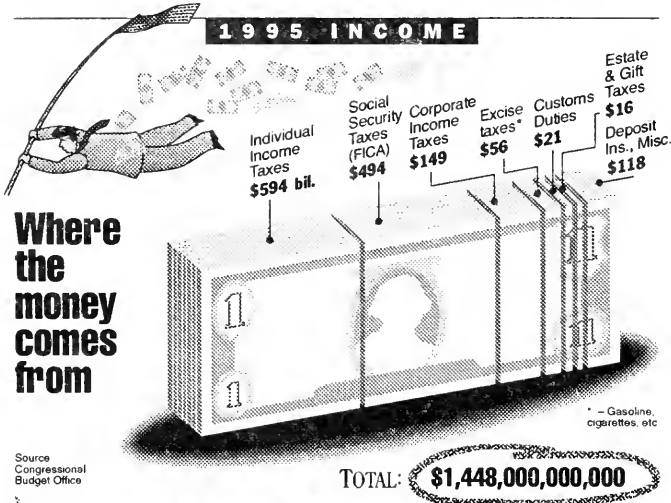


► **\$3 million**  
per minute



► **\$50,736**  
every second

# Your family balances its budget, and so should Washington!



**Do the math...**

Total income: **\$1,448,000,000,000**  
 Subtract expenses: **\$1,624,000,000,000**  
**BUDGET DEFICIT \$176,000,000,000 bil.**

**ENTITLEMENT:**  
 Government obligation that directs payments to people meeting requirements established by law.

# Help Congress balance the budget...



All right America, it's your turn to take pen in hand and help Congress decide how to balance the budget! This year's Federal budget deficit is projected to be \$176 billion. Republicans have promised to balance the budget by the year 2002. To begin down that path, a down-payment on deficit reduction of \$60 billion must be made in Fiscal Year 1996. Here's your chance to decide

which programs to increase, reduce, or eliminate to reach the \$60 billion down payment. Ready? Below are a few examples of federal programs funded by your tax dollars. Column one (FY 1995) lists the amount spent this year. Column two (FY 1996), you decide how much should be spent next year. Column three (Savings), list the amount saved; add together until you reach \$60 billion.

## FEDERAL PROGRAMS

	Amounts in millions	FY 1995	FY 1996	SAVINGS
<b>Defense</b>	Military Personnel	\$70,644		
	Military Family Housing	3,457		
	Military Construction & Purchasing	60,307		
	Operation & Maintenance	89,206		
	Research Development Test and Evaluation	34,981		
	Nuclear Defense Activities	10,452		
<b>Foreign Aid</b>	Diplomacy Efforts	5,198		
	Foreign Construction Projects	3,565		
	Foreign Agricultural Service	1,022		
	Foreign Peacekeeping & Economic Support	6,622		
	Foreign Development Banks	2,262		
	Overseas Broadcasts	1,234		
<b>Science</b>	General Science & Research Activities	1,388		
	Science Academic Research	2,839		
	Space Flight	3,474		
	Space Mission Support Services	3,427		
	Space Research & Development	3,180		
	Science Aeronautics and Technology	2,809		
<b>Energy</b>	Department of Energy Overhead	307		
	Energy Supply Research Activities	3,265		
	Alternative Fuels Research & Nuclear Disposal	2,218		
	Federally Owned Power Plants	342		
	Regulation of Nuclear Reactors	22		
	Tennessee Valley Authority	1,273		
<b>Environment</b>	Forestry, Firefighting, Flood Control	6,972		
	Agriculture Conservation	2,018		
	Wetlands & Other Resources Conservation	1,050		
	Federal Weather Monitoring	1,942		
	National Parks, Land Management, Fish & Wildlife	4,577		
	Environmental Protection Agency	6,180		
<b>Agriculture</b>	Food Advertising	162		
	Agricultural Research	771		
	Food Safety Inspections	449		
	Federal On-site Farmer Consulting Services	929		
	Federal Crop Insurance and Credit	8,874		
	Agricultural Statistics Service	90		
<b>Commerce</b>	Rural Housing & Community Development	1,236		
	Census Bureau	279		
	National Institute of Standards and Technology	464		
	Travel and Tourism Promotion	17		
	Federal Savings & Loan Insurance Corp. Resolution	1,800		
	Loans to Small Business	435		
<b>Transportation</b>	Coast Guard	3,577		
	Aviation (Air Traffic Control, FAA)	8,975		
	U.S. Highway Construction & Safety	18,727		
	Railroads (Amtrak)	1,082		

ADD each column together for SUBTOTAL \$ 386,278

	Amounts in millions	FY 1995	FY 1996	SAVINGS
<b>Transportation</b>	Mass Transit	3,940		
	Sea & Ocean Operations	369		
<b>Development</b>	Rural Business, Housing & Utilities Subsidies	666		
	Urban Planning Subsidies	4,370		
	Native American Affairs, Indian Tribal Subsidies	1,152		
	Federal Subsidy for Rural Residential Utilities	202		
	Disaster Relief/Emergency Funds	4,285		
	Small Business Disaster Loans	424		
<b>Education</b>	Federal Payments for Disadvantaged Students	6,431		
	Loans & Gifts to Students for College	13,656		
	Special Education & Rehabilitation	5,508		
	Vo-Tech Schools, Job Training	5,278		
	Foster Care, Child Support Enforcement	12,543		
	Arts & Museums	1,060		
<b>Health</b>	Health Care for Welfare Recipients	49,218		
	Elderly Health Insurance, Health Care Trust Funds	222,573		
	Medicaid Graduate School Loans, Malpractice Comp.	3,154		
	Centers for Disease Control & Prevention	1,889		
	Food and Drug Administration	524		
	Medical Research	11,039		
<b>Social Services</b>	Food Stamps, etc.	37,777		
	Family Support (mostly AFDC)	17,243		
	Homeless Assistance, AIDS, Public Aid, Indian Housing	25,855		
	Unemployment Payments	25,377		
	Government Pensions	36,802		
	Disability Income	24,322		
<b>Veterans</b>	Armed Forces Retirement Homes	50		
	Construction, Education Benefits & Cemetery System	891		
	Department of Veterans Affairs Overhead	980		
	Veteran Benefits	20,359		
	Medical Care, Prosthetic Research, Rehabilitation	18,181		
	American Battle Monuments Commission	26		
<b>Justice</b>	Federal Bureau of Investigation (FBI)	2,114		
	Federal Prisons	2,941		
	Immigration and Naturalization Service	1,871		
	U.S. Marshals, U.S. Attorneys, Violent Crime Reduction	3,571		
	United States Customs Service	1,706		
	Supreme Court, Courts of Appeals, District Courts	3,870		
<b>General Government</b>	Internal Revenue Service	7,489		
	United States Mint	48		
	Presidential Expenses	290		
	Federal Buildings, Property Acq.	465		
	Legislative Branch	2,182		
	Federal Workers Retirement	12,737		
<b>KEY:</b>		<b>TOTAL</b>	639,853	
\$123,123		<b>TOTALS from previous page</b>	386,278	
Billion Dollars		<b>YOUR DEFICIT DOWNPAYMENT: \$</b>		





Mr. MILLER. Let me ask a couple of questions, though. First of all, I agree with you about some of the confusion, sitting on Appropriations and Budget.

We have worked together on, for example, the discretionary part of health, and so we set a dollar amount for the health category in the budget, and that includes Medicaid, Medicare, and discretionary health.

Appropriations Committee has Health, or HHS, Department of Labor, and Department of Education. And so it is a different pie you work with. And I found it difficult to go from—because we were very much constrained, there is a very limited amount of discretionary health within the Budget Committee category, whereas when you get to the Appropriations Committee it is much larger because it includes three departments.

So that is an illustration that we have had to deal with very specifically as far as how do we allocate the money between that.

What is your opinion of the two year budget?

Mr. LARGENT. I really have mixed emotions on two year budgets. I understand the need for oversight, and clearly, we do not have enough time to do the appropriate oversight over the 17,000 programs that are implemented by the Federal Government on a yearly basis.

But I heard some of the comments of earlier people that testified about having a two year authorization, but a yearly appropriation, so that you have the authorizing committee having more opportunity to do oversight responsibilities, but you still appropriate on a yearly basis. Then if you get really out of whack, you can still make adjustments in the middle of that two year cycle.

I think that makes a lot of sense. I guess my analogy of having mixed emotions is when your 17 year old daughter comes in at 1:00 o'clock in the morning with a Gideon bible under her arm, that is mixed emotions, and that is the way I feel about a two year budget.

[Laughter.]

Mr. MILLER. There have been conversations about doing away with the Appropriations Committee. Do you have an opinion about that?

Mr. LARGENT. You know what? The more I think about it, the committee we need to get rid of is the Rules Committee. Because if we just said, here are the rules and you must play by the rules, no matter what the legislation is, and we cannot waive the Budget Act, we cannot waive points of order against appropriations that are unauthorized, budgeting would be a lot simpler.

Oftentimes during the budget process, I have been an advocate of doing away with the Appropriations Committee. I think we have so many—duplicated and triplicated responsibilities across committee assignments, that again, at the end of the day, there is less accountability rather than more accountability.

Mr. MILLER. I am interested in how things operated prior to 1974, before there was a Budget Committee, but I will have to save that for another one.

Mr. Olver, do you have questions, or some comments?

Mr. OLVER. You have stirred me with that comment because the frustration that I think all of us feel is well shown in the written testimony by Representative Largent.

Now all of those things, so much of that seems like kind of common sense. I have spent many years in the budgeting process in Massachusetts, which is a pretty big State, it has a \$17 billion to \$20 billion budget. And it was certainly understandable. It was a hell of a lot more orderly than the process that we function with here.

And indeed, I wonder how we got to where we are now—and you point out the Budget Committee was adopted in 1974. Maybe the question is maybe we ought to get rid of the Budget Committee. But at least prior to 1970, the deficits that we run into now, by whatever process, which is so convoluted, as expressed, has gotten us—by whatever process, in these last couple of decades, it has certainly moved us a long way away.

Prior to that, yes, you would, without a budget amendment you would do essentially I think what Representative Largent says—you would decide how much money you had and how you would spend it, and then put forward a budget.

Well, when you put forward a budget at the beginning of one fiscal year, you cannot be entirely sure what is going to happen by the end of that fiscal year. And so some years there was a little surplus; some years there was a little deficit.

Obviously you try not to—the tendency will be always to overestimate maybe how much the revenue is because we are a body that likes to at least say yes to a lot of our people.

And so maybe it was built in, that there would be more times we would be slightly below the line than slightly above the line.

But it was really slight compared with the size of the economy, except if you looked at the years of the Second World War.

And I do not know how we got to the point where it just became, spend it all, do not pay any attention to any of that. I really do not know whose fault it was, which committee, what structure here; but it is certainly true that the system is a confused, convoluted system, as stated. I think that the comments that have been made are certainly very appropriate to what happens, and this is my first term on this committee, so I am in exactly the same position as the other Members of the freshman class, even though I have been in the Congress five years.

But I do not think that people who have been here a much longer time have any much better idea of how this really functions.

No questions; just the comment.

Mr. MILLER. This process review is not a partisan issue. The committees can operate partisan, but, you know, there is a problem—you know, I am sure when you all were in the majority, is how to get the process, and maybe creation of the committee ended up allowing this problem to develop with the deficits.

But Steve Horn's a real historian. Do you have a comment?

Mr. OLVER. It certainly does appear that the President is completely detached in the system as it has functioned, since I have been on the committee at least, and since I have been in Congress I have not really sensed that it was much less detached in the previous years. And that is a real problem.

Mr. MILLER. Maybe with one exception of the budgets for 1993 and 1994, where you had a Democratic Congress and a Democratic President. That would be the only time. Otherwise, you are——

Mr. OLVER. Have you been in long enough to know who was——

Mr. MILLER. No.

Mr. OLVER [continuing]—Very different, when there was previous times when there was a Democratic President, Carter, with a Democratic Congress?

Mr. MILLER. I do not know.

Mr. OLVER. In those couple of years?

Mr. MILLER. No, I do not know. I am just saying with the same parties, very likely the budget was more——

Mr. OLVER. Prior to 1974, there is no indication that it made much difference, the degree of balancing of the budget in some manner. With a small portion, within a small margin of imbalance, one way or the other, it certainly did not seem to make any difference who was in charge of the Congress or the presidency.

Mr. MILLER. Right. Any comments, Steve?

Mr. LARGENT. No.

Mr. MILLER. Ms. Myrick.

Ms. MYRICK. Following up on the conversation relative to the deficits and the process, and all, my recollection of some things I read, throughout history, which goes back into the 1800s, is that every time throughout history we have had one committee—and that has been the case—making budget decisions, we have always had a surplus.

And when we have had several committees, or at least more than one, we have had budget deficits. And I think that deserves some study.

The other thing is that, Steve, I commend you for doing this, and I agree with you completely and share the same observations and frustrations that you have—being new to this.

I really believe it has been set up to be complicated on purpose, because the whole system has been set up to spend money, and when you have a system that nobody knows what is going on, and you do not really understand how it is being done, there are lots of ways to put pork into the budget—and special projects, whatever it is. It just makes it easier, and I do not think they really wanted people to know what was going on.

And so I think over a period of time, it has just gotten more complicated, and nobody has taken the time to stand back and say, Hey, wait a minute, you know, let us look at this objectively, which is what you are doing, which is what Mark has done these past couple of years. And I really think this deserves a lot more attention than it is getting.

Part of the problem, right now, is everybody is trying to do everything to get out of here, and there are a lot of committee meetings and other things going on, that people obviously have to be in other places.

But I really do not think it is something that we should take lightly. I do not think it is something we should drop.

I think we should very definitely push to see that this is a part of what we do in the 105th Congress, to see if we cannot make some dramatic changes that will not only simplify the process, and make it understandable for people, but really serve the purpose of what it is for.

Mr. MILLER. John Shadegg.

Mr. SHADEGG. Thank you, Mr. Chairman.

Let me briefly comment that there perhaps, at least in my opinion, there is no greater challenge to the Congress than this task. It is absolutely clear to me that where we are achieving change in Washington is in those areas where the American people can understand what we are doing, and say, I see what you are doing, I do not like it and I want it changed.

And the budget process—I read Congressman Largent's written testimony and it summarizes perfectly, exactly where I am.

I came into this committee as a freshman. I have struggled to try and learn and understand the budget process. It is phenomenally complex, clearly unnecessarily complex, and I have to agree, wholeheartedly, with Congresswoman Myrick—I think intentionally so.

Clearly, by making this a process where there are a 1,000 different entry points, and nobody can understand it, you create a situation where people who do master it can manipulate it.

And it seems to me, if we are to get control of spending in this Nation, we need to allow America to know what we are doing, and accountability is the word Congressman Largent used, and I think that is exactly right.

There flat is no accountability. I cannot go home and explain this committee and the process we follow to any of my constituents, and I have been on the committee now 19 months.

It is absolutely certain to me that if we are to ever control Federal spending, and if we are ever to return to fiscal sanity, we have got to get back to that simple concept. How much money do we have? How do we want to spend it?

I struggled, early on, with trying to understand the process, found it just shy of impossible, and reached the conclusion that perhaps the only way we could achieve what I thought was most important was to do across-the-board cuts.

That is to say, we are to cut every single program and every single agency by the same percentage. Even that is impossible because of the entitlement structure of the Federal Government.

And yet that is the only way I could logically think of to say to America, Look, the priorities that we have established in the past may or may not be appropriate, but the single greater priority has to be controlling spending.

And I think it is extremely important and one of the questions I have, though not the first, is how, in fact, are we going to achieve the fire for that? How are we going to achieve budget process reform? Because I don't think if we don't achieve that we will ever get control of spending.

But, let me specifically ask, what two or three or five most significant reforms can or have you identified or can you identify that are within the realm of reason that would improve the process?

And let me just start; your testimony illustrates one that makes a lot of sense: force the President into the process early on and get him to sign off on an agreement on global spending numbers. That seems to me like a simple, straightforward concept that has real appeal to it. My question to you is, can you identify others and/or prioritize them?

Mr. LARGENT. Oh, sure, several. One is entitlement reform. We are talking about over 50 percent of the budget and there's many

different suggestions on doing entitlement caps or basically eliminating entitlement as an entitlement and say every year Congress has to reauthorize; or doing a five-year authorization or whatever, but stopping the automatic pilot. We assign this much money to be spent on X, Y, and Z.

Everything essentially becomes discretionary and there's no such thing as entitlement. That brings more accountability into the system and, again, you begin with how much do we have and how are we going to spend it.

Another thing is emergency spending. This Congress has been guilty of it as well, where not everything in those emergency appropriations have been real emergencies. They have resembled Christmas trees.

And, so, we should do two things. One is say that emergency spending will be just for emergencies and secondly to actually establish a rainy day fund for emergencies, as most State Governments do already. That would be another step in the right direction.

Another thing that I think would be extremely beneficial is requiring a super majority vote in the House before you could waive the Budget Act. That would make it harder, not easier, to ignore the laws that we already have, and that we routinely ignore as I mentioned in my testimony.

Mr. MILLER. John, we have one other person and we have Mr. Neumann, so we will take a question and then we will go to Mark.

Mr. SHADEGG. I just want to briefly comment that I did not serve in the Arizona legislature but I watched the Arizona legislative process closely and worked with the Attorney General's Office and advised legislators on that process. The Arizona budgetary process was dramatically less complex, nowhere near as obtuse or obscure as this process and I think the consequences are that we are out of control.

What arguments, what are the most salient arguments that you have heard against budget process reform, against the Cox bill, the Barton bill, your bill, or those ideas?

Mr. LARGENT. I think if you talk to individual members which, of course, I have and not just ones on the budget committee, I haven't come across anybody that doesn't agree that we need budget process reform, that the system doesn't work and we must fix it.

But beyond that, it seems to be it's almost viewed as an immovable object. You asked me for specific things that I think we could do, those are things that I think we can do. I think there are other things that we should do, but I don't think we can. That would be overhauling the entire committee structure, and trying to align our committee structure more closely to what the Senate is doing and aligning it so that our budget looks the same as the President's budget and everybody is on the same page in terms of function numbers and that sort of thing.

But the general consensus is that budget reform is sort of like welfare reform—everybody agrees we need welfare reform and we can argue a lot about the details, but there's no argument that we didn't need welfare reform. We did. Everybody agreed with that. And it's the same with budget process reform. I have never heard

anyone say, well it didn't need improvement. With one exception—our budget committee chairman is the only one who likes the way it is right now, and maybe the budget committee chairman in the Senate.

Mr. SHADEGG. Those last two comments may be very salient comments. It seems to me—I am going to join Congresswoman Myrick in saying I commend you for your efforts. I will join you in pressing hard for budget process reform and I would urge that we seek to do what we can do as quickly as possible and as much of it in the rules package of the 105th Congress as we possibly can.

And the only thing I would caution as to those things you said we can't do, that we ought to view that as we can't do them in the short-term but they fully need to be done in the realignment of the committees. And making this a system that is user-friendly to America will do, I believe, more to force this Congress to be accountable and more to return fiscal sanity to the Federal Government than anything else we could do.

And if that is going to take us two or three sessions, we ought to just not give up.

I yield back the balance of my time.

Mr. MILLER. Thank you. I agree with your comments, too, Mr. Largent. This is my second term on the budget committee and it is frustrating to still try to understand.

Mr. Neumann managed to master it during his first year in office to produce his own budget, so, let's hear from someone who can produce his own budget.

#### **STATEMENT OF HON. MARK NEUMANN, A MEMBER IN CONGRESS FROM THE STATE OF WISCONSIN**

Mr. NEUMANN. Well, if I could just start by saying that virtually everything you said I could reiterate over again, and I won't do that. But a couple of things I would lead with: I think I agree with you that the most significant thing that we can do is end the concept of entitlement and make entitlements fit into categories just like anything else around here. And annually vote on the amount of spending in each one of those areas, as opposed to turning it loose and spending whatever dollars are necessary. Because, obviously, that doesn't work.

I bring a little different perspective to this and the reason we were able to put together a budget in our first three or four months here is because I've been through this before.

The first year we built homes, in 1986. We had about \$400,000 in gross sales and we had no idea where the money was going to and, in addition to not getting paid a salary, I got to donate about \$20,000 to the business to keep it from going under in the first year.

The reason we had problems in the first year was not that we couldn't build the homes or they weren't good enough quality or anything else. We had no idea where the money was going to or how it was being spent and it was really the crux of the problem.

By the second year, we would have been bankrupt if we didn't change things. So, one of the most significant changes we made was not in the structure or how we were building the homes, but

rather it was in how we were tracking the money and our ability to understand where the money was going to.

Now, I could spend the rest of the time talking about what happened after that, because it was very good. The business got on its feet, and we started making legitimate profit margins that were acceptable in the business world. The business exploded to a point where we were doing \$12 million in gross sales four years later.

Conceptually what that means, and it sounds easy to talk about but when you think about that, if you're doing \$400,000 in gross sales in a year, you're spending about \$40,000 a month, give or take. A few years later, we were literally handling bills, we were literally paying bills that were over a million dollars a month.

Okay, you can't do that as a small business owner without understanding where the money is coming from and where it is going to. And it is that basis that I bring into this. And my expectations when I came here—I've got a picture that kind of shows what you all have been talking about and I thought I would bring it along.

Here's what I expected to find when I got here. Now, as we are all aware of in this committee, the functions literally exist in the budget right now. So, we've already got functions here: the defense committee, the international affairs, space. This is a good, logical, straightforward, acceptable accounting procedure.

And what I expected is that we would find a committee. So, I am kind of off into, how this thing should be, in my opinion. And that is that we should have a committee that is responsible for that accounting code number. If we have an 050 accounting code, and it's national defense, we ought to have a committee that is responsible for the spending in the national defense area. And if it is international affairs, well, so be it.

In terms of making these changes around here, as I listen to people talk about this they say, well, we can't do that because there are 13 committee chairmen and there is this person with this responsibility, we have got too many people in power who would not be willing to give it up.

I would like to suggest that if we did go to this sort of an arrangement we could actually have as many people in positions of power as we currently have today, but we might rename these things so they are actually responsible for something that is understandable.

Here's what I found. We decided to take a look at what the real problems were around here. Instead of this picture, here's what I found.

Now, we looked at these budget categories and we looked at where the money was spent from these budget categories. Some of you have seen this before but you might find interesting things like national defense, for example, the 050 category that is sending its money to six different committees.

Now, Brad, bring me the other chart just in case anybody understands what is on this one. We found that from these committees to where they actually go to spend money, there's another chart that looks just like this one. And, in fact, if you actually went out to the point where they were actually spending the money at the local level, you would find there would be several other charts just like this in between.

So, for my testimony today, what I would like to do is to suggest a kind of procedure that might be found acceptable. How do we do this kind of procedure? We go to the accounting codes and we set up committees that match up to the accounting codes. If you want authorizing committees and you want appropriations committees that's fine and that fits that procedure very, very nicely. You simply go to the accounting codes and you set up an authorizing committee if you like from the accounting codes and then an appropriation committee, but you have everything match up, like what you saw on that first chart, as opposed to what you see on the other two.

If we did that we would find that we would once again be able to track where the money is going to. And I point out from my experience in the business world, the difference between the first year and the second year—the first year where we lost our shirts and the second year where we were literally able to make a legitimate profit margin so the business could grow and expand—was not the volume of business, it wasn't any of that; it was having a handle on where the money was going to and why it was going to that category so that we could eliminate what, in the Government, would be the wasteful Government spending and some of the pork projects that go into it. In the home building business it was unable or lack of ability to understand what a home was costing us to build.

The concepts, conceptually, are exactly the same. And albeit a larger scale, conceptually the idea that you start with an accounting code, you have somebody who is responsible for that category, their committee has to pass their bills on the floor like anybody else. The whole system can work without stepping on the toes of all the people in power.

And I'm sure that there would be a struggle as you went from our current system to the new system but, conceptually, it could be done in the same way we did it in the business world between year one and year two.

Before I conclude my part of this and take questions, I would also like to reiterate that the entitlements are a fundamental problem. But the second fundamental problem, as Mr. Largent suggested, is that we do not start deciding how much we're going to spend in each one of those categories by available revenue. We, instead, make the spending decisions first and that whole process needs to be completely reversed.

And I would also like to point out I serve on both appropriations and budget and the appropriators, when given a 602(a) allocation from this committee have hit those 602(a) allocations right straight across-the-board.

So, as we are looking for how we're going to change this so we quit spending our children's money, it doesn't seem to me that we ought to go to the appropriators and say it's the appropriators fault for this thing because, after all, the budget committee gave the appropriators their 602(a) allocation and the appropriators have come in at or below the 602(a) allocation both years I've been here.

So, it seems to me logical that we should look elsewhere for the real problems in this process. If we don't like the 602(a) allocation,



then it was our job, as a Congress, to tell them that the 602(a) allocation was too high.

I would suggest that the real problem around here is that nobody really understands enough about this to know when they object to it that they will be able to explain their objection and why it should be done different.

So, I would be happy to answer any questions you might have. And I do want to emphasize we do have a specific suggestion here and that's that we untangle that web.

[The prepared statement of Mark Newmann follows:]

PREPARED STATEMENT OF HON. MARK NEUMANN, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF WISCONSIN

Mr. Chairman, I'd like to thank you for the opportunity to testify before the Committee on the extremely important subject of reforming our current failed budget process.

The current budget process does not favor those who want to restrain spending and balance the budget. Instead of Congress making informed, rational decisions about allocating our scarce dollars, members of Congress struggle to comprehend our big budget picture. The complexity of the budget process has only empowered those who favor spending without restraint. This byzantine process has produced a \$5 Trillion National Debt which threatens the economic future of our children and grandchildren.

If we constructed a new, understandable budget process, members could make reasonably informed choices, explain those choices to the American people, and end the inherent bias in our system towards ever more spending. Without bold reform of how Congress makes its spending decisions, we will continue to face debates over non-existent "cuts" every year, jeopardizing our efforts to balance the budget.

With boldness in mind, I am proposing an entirely new budget process which throws out the old system, starts from scratch, and builds a process which the American people would find reasonable and responsible. My new process is simple to explain, creates accountability, and insures that we meet our budget targets. If we don't rethink the current system, the Congress dooms itself to a playing field which favors the opposition, and our drive to reach balance by 2002 will likely fail.

THE PROBLEM: WHO CAN COMPREHEND OUR BUDGET PROCESS?

During my first twelve months in Congress, I have found myself constantly astounded and exasperated by the absurdities of our current budget process. More disturbingly, few members of Congress truly have a keen understanding of the process, our priorities, or how we make decisions. This is not because my colleagues lack the ability or desire to grapple with the problem. Instead, the hopelessly complicated way we present the budget and the lack of accountability in our current decision processes have created enormous barriers to understanding. As a result, members of Congress are largely in the dark on budget decisions and spending continues unchecked. A brief summary of the current system will reveal its inherent weaknesses:

In February of each year, the President submits a detailed "budget" which is largely ignored by Congress (with good reason in 1995 because the President's plan projected \$200 Billion deficits well into the future).

In the Spring, Congress writes a "Budget Resolution," spelling out spending levels in 18 "budget functions." But these budget functions have little relation to any future budget decisions.

Instead, the process is complicated by arbitrarily splitting the budget into "discretionary" spending (about one-third of the budget) and "mandatory" spending (the other two-thirds, including entitlement programs and interest on our huge debt).

Discretionary spending is spelled out in 13 Appropriations bills, with spending limited by caps which are constantly "adjusted." Programs and agencies are grouped in the 13 bills with no rhyme or reason. The VA/HUD Appropriations bill, for instance, finds competition between the Veterans Administration, HUD, EPA, and NASA for scarce funds. To further complicate matters, many departments receive funds from multiple appropriation bills.

The two-thirds of the budget called mandatory spending is not controlled at all, unless Congress and the President agree on a "Reconciliation bill" to adjust spending in mandatory programs. The Reconciliation bill is supposed to conform to the Budget Resolution's targets for mandatory spending, but these targets have no con-

nection to the original budget functions and are routinely ignored by the authorizing committees tasked with finding savings.

The Reconciliation bill is "scored" against an inflated "baseline." Any reduction from this ever growing baseline is irresponsibly called a "cut," even if spending in reality is increasing at twice the rate of inflation, as in this year's Republican Medicare plan.

The reported budget deficit significantly understates our true budget deficit by over \$100 Billion each year, since surpluses from trust funds (including Social Security) are spent rather than saved for future needs. Nor do large segments of the federal budget conform to generally accepted accounting principles. As a result, members have little knowledge of our investments, or liabilities, or our true budget deficit.

In sum, at no point is the federal budget ever presented in a clear, readable form to members of Congress or the American public, who can barely follow this Rube Goldberg budget contraption. The media are reduce to following the "budget battles" like a horse race, rather than clearly presenting the numbers, decisions, and choices to the public. Only well-paid lobbyists and Congressional staffs have any idea about the details of our budgets. Spending continues unabated, producing chronic deficits and an ever-growing debt.

As the above summary shows, the current system only hides, obfuscates, and otherwise avoids serious decision making by Congress. No rational organization in the private sector would set up a decision-making system like I just described; no company that wanted to remain solvent would keep such a system for long. Likewise, if Congress truly wants to produce lasting balanced budgets, it must scrap the old antiquated system and start from scratch. Again, we must be bold—tinkering around the edges of our current system would only make things worse.

#### THE SOLUTION: START FROM SCRATCH

Below is an outline of a new budget process that any reasonable business person would set up if faced with decisions about how to allocate scarce resources:

(1) Re-create the Budget Committee.—The Budget Committee should be reorganized along the lines of a Board of Directors, with the Speaker at the top, followed by other Committee Chairmen and members elected by the party rank-and-file. The new Budget Committee would, on a biennial basis, set out the absolute levels of spending in broad, readily understandable categories such as Health, Transportation, Welfare, etc. These broad levels of spending would be locked in law, negotiated and signed by the President. The budget categories must be clear and unambiguous, unlike our current 18 budget functions, which mysteriously include categories like "Income Security" which lumps together widely disparate activities.

(2) Create accountability by reforming the Committee structure.—In order for both members of Congress and the American public to understand our budget decisions, we must have clear lines of accountability. The categories set out by the Budget Committee must exactly correspond, on a one-to-one basis, with Congressional committees. That is, each budget category would have its own committee: i.e., the Health Committee, the Transportation Committee, the Welfare Committee, etc. No confusing overlapping jurisdictions would be allowed. Each committee would handle authorization, appropriation, and oversight responsibilities which are currently spread thinly across the Congress. Accountability and clear chains of command would bring a more streamlined, more visible, and more efficient decision-making process.

(3) Strong enforcement.—By law, each committee could spend no more than what the new Budget Committee allocates. Any excess spending would be sequestered, as with the current Appropriations process. Any less spending by one Committee could not be moved around and spent elsewhere without a new law redistributing the funds. It is worth noting here that an important redeeming feature of the current Appropriations process is the relative effectiveness of the overall discretionary spending cap (the "602(a)" number in budget jargon) which limits overall spending in Appropriations bills. This enforcement mechanism should be maintained in some form under a new budget process.

(4) End auto-pilot spending.—The concept of mandatory spending must end, and with it, the "baseline budgeting" which hopelessly biases our choices in favor of ever more spending. In a few instances, projections of estimated spending in a few areas will be essential: Net interest and Social Security, for example. But rather than presenting numbers as a "cut" from a floating baseline, spending must be presented compared to current year spending. We would build up the budget by deciding where to allocate available revenues, rather than building down from an out-of-control baseline which demands increased spending.

(5) Present the Budget in clear, readily understandable terms.—If the above reforms took place, the entire federal budget could be readily and easily explained to the American public. Newspapers could publish a simple one-page table explaining how much is being spent in each budget category. The American people would know whether spending, in fact, is increasing or decreasing. If the Balanced Budget Act of 1995 had been put together in the above environment, then all the discussion of "cuts" would have been easily avoided. The American public would have embraced our plan and our opponents would have melted away in the face of healthy increases for Medicare, Medicaid, and student loans. If the American public could understand our decisions, the likelihood of actually balancing the budget would increase dramatically.

#### CONCLUSION

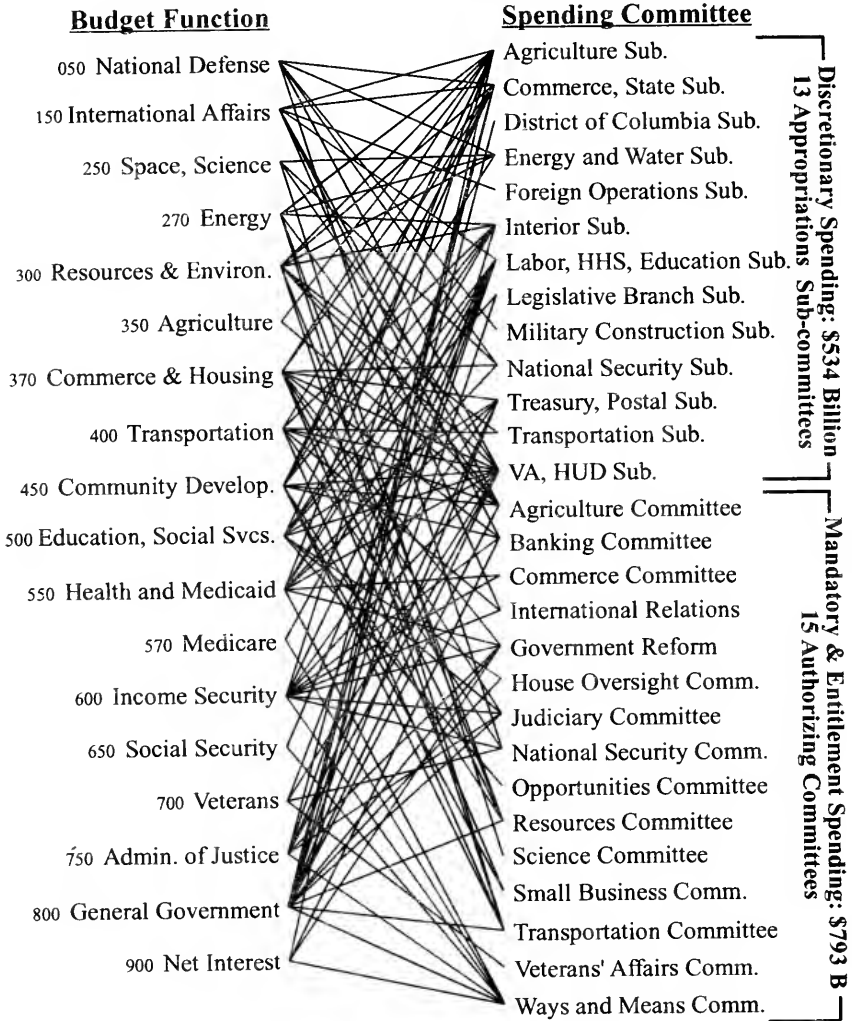
The outlines of this proposal are necessarily bold: it would mean the end of the committee structure as we know it. The Ways and Means Committee would be broken up into at least five separate committees (Health, Welfare, Social Security, Tax, Trade). Why should one committee have jurisdiction over such a large portion of our spending? Nor would the Appropriations Committee exist in its current form, though, in its defense, the committee has done an excellent job in meeting its targets. Still, the arbitrary distinction between discretionary and mandatory spending and the overlapping jurisdictions of its 12 subcommittees are hopelessly confusing.

I understand that such a bold proposal might be laughed at by pundits who have spent too long inside the Washington beltway. But the only way to get our fiscal house in order is to establish rational decision-making processes by creating clear lines of accountability and by ending the inherent biases in favor of more spending. If we want to succeed in balancing the budget and keeping it balanced, we must fight the culture of spending in Washington that has created this mess. The budget process is at the heart of this culture of spending. I am convinced that only the most sweeping and bold initiatives can ensure that we accomplish our missions of balancing the budget and saving the economic future of our children and grandchildren.

Thank you again, Mr. Chairman, for the opportunity to present my ideas before this Committee.

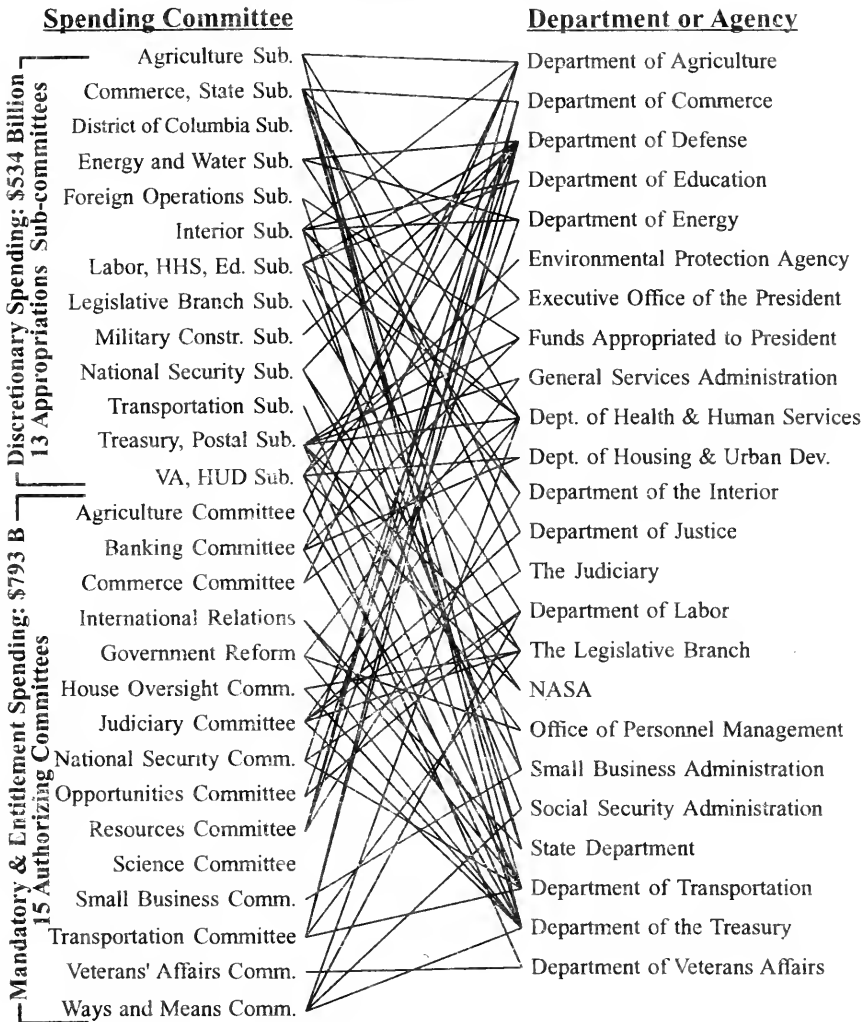
# Our Current Budget Process: A Terrible Mess

Tracing Budget Functions to Spending Committees: Each line represents real spending authority



# Our Current Budget Process: A Terrible Mess

Tracing Spending Committees to Departments and Agencies



Other Independent Agencies not included in chart. Each line represents at least \$10 million in real spending authority.

## Common Sense Budget Process:

<u>Budget Function</u>	<u>Spending Committee</u>
050 National Defense	National Defense Committee
150 International Affairs	International Affairs Committee
250 Space, Science	Space, Science Committee
270 Energy	Energy Committee
300 Resources & Environ.	Resources and Environ. Comm.
350 Agriculture	Agriculture Committee
370 Commerce & Housing	Commerce & Housing Comm.
400 Transportation	Transportation Committee
450 Community Develop.	Community Develop. Comm.
500 Education, Social Svcs.	Education, Social Svcs. Comm.
550 Health and Medicaid	Health and Medicaid Committee
570 Medicare	Medicare Committee
600 Income Security	Income Security Committee
650 Social Security	Social Security Committee
700 Veterans	Veterans Committee
750 Admin of Justice	Justice Committee
800 General Government	General Government Committee
900 Net Interest	

Mr. MILLER. Well, sitting on both those committees with you, I agree it is very confusing as to why certain programs are in which departments. I mean there's a large amount, for example, for breast cancer research in the Department of Defense. You know, and why is Head Start under HHS rather than Education? I mean a lot of areas are very confusing.

Ms. Myrick?

Ms. MYRICK. No comment, thank you.

Mr. WALKER. Mr. Shadegg?

Mr. SHADEGG. Thank you, Mr. Chairman.

I do have a question. The last point you make about 602(a) allocations, it is, in fact, true that in the vast majority of circumstances all the way down the line, the appropriators have met the 602(a) allocations. I guess I have a concern about whether or not if we had found the result to set the 602(a) allocations at levels which would have, for example, not created an increase in the deficit next year, would the appropriators have met the 602(a) allocations?

And the second question I have is, and here you can explain to me, where are we in this situation where the Senate, as I understand it, now wants, if we meet certain criteria, to exceed the 602(a) allocations in the coming year's budget? And how does that go to the issue of, can we solve this problem by greater resolve in the budget committee?

Mr. NEUMANN. Well, first, what the appropriators have to resolve to get it done, I think we have to look at last year, where for the first time in a generation, they literally received a number that was lower, not in Washington language but in Wisconsin language, lower spending than the previous year by \$30 billion.

And, in fact, they not only got the job done but we find out now that we are actually ahead of schedule by all accounts and we're going to see a deficit all the way down at \$120 billion.

So, I guess my first answer would be, with the help of the members of Congress, of course, who are willing to stand behind it, the appropriators were able to bring the bills to the floor that lined up with the 602(a) allocation that, for the first time in a generation, was lower last year.

And I sound like—I am in this dangerous position here, sitting in the budget committee, defending the appropriators but the reality is they got the job done.

And the second reality is that is that we, the members of Congress, gave them the ability to spend more money through the 602(a) allocations and had we not done that, they would have had no choice but to bring it in on target. And I they could have and would have done it, had we had the resolve to stick to our guns and enforce it through the issuance of an appropriate 602(a) allocation.

Now, your second one went to, can we solve the problem through the 602(a) allocations.

Mr. SHADEGG. No. The second one was a specific request about—and maybe I'm misunderstanding this—but it is my understanding the Senate has on the table a proposal we exceed the 602(a) allocations in certain categories in this year's budget process.

Am I mistaken about that?

Mr. NEUMANN. As you are well aware, when the proposal was first made to allow the deficit to go up next year, I got on the phone myself with a large number of members and talked about it. If the Senate proposes that seriously, I will certainly be doing the same thing to do everything I can to prevent it from happening. And I know the people in this room, again, are probably in the same court.

One problem that we have and we saw it during that debate this year, as we talked about giving the 602(a) allocations a discretionary spending number that was up \$15 billion over what our targets were in our balanced budget plan is a lack of understanding of the members of Congress and the reason there is a lack of understanding is because of this mess.

It would be interesting if we started talking about the difference between BA and outlays and you just lose people very quickly and understandably you lose people very quickly.

So, is it possible that they will bring us a convoluted means of spending more of our children's money than what we are currently doing and pull the wool over our eyes to get enough members to vote for it to pass it? Yes.

Okay, will we be doing everything we can to stop it? I sure hope the members of this committee are united on stopping it.

I hope I didn't mince any words there.

Mr. SHADEGG. Congressman Largent raised the prospect of emergency spending. As I understand it, that is one of the problems with the 602(a) allocations is that if we pass a measure as an emergency, that's one of the tricks that gets us out from under the 602(a) allocations.

Mr. NEUMANN. That's a good question. It's a good point. If we study the figures, the year before the current freshman class that is here, that is a true statement what you just made. But if we look at the numbers from the previous year, from last year and currently how the emergency spending is being handled, emergency spending is keeping within the 602(a) allocations.

And I would point out that last year the appropriators did meet the 602(a) allocation even with the emergency spending included. So, that is not a true statement of our tenure here but it was a true statement before. That that was kind of a common practice, as I understand it, that you bring an emergency spending bill through, and the emergency spending then is, by definition, outside the 602(a) allocations and literally you can spend more of our children's money.

But, while that is still the rules right now, that is not the case as to what happened last year. Last year, even with the emergency spending, the 602(a) allocations was met.

Mr. SHADEGG. So, as a matter of self discipline, we have not used the emergency device to exceed the 602(a) allocations but, there is nothing in current budget process that compels us, in emergency spending measures, to live within the 602(a) allocations?

Mr. NEUMANN. Right, that's correct.

Mr. SHADEGG. So, that clearly ought to be one of the process reforms that we, at least I would think, we need to adopt and adopt quickly.

Mr. NEUMANN. The discipline part or the—



Mr. SHADEGG. You can't adopt that as a rule, I don't think. No. I'm talking about a requirement that any emergency spending would have to fit within the 602(a) allocations; otherwise, you've got a whole system in place that has an escape hatch through which spending can take us way above our intent.

Mr. NEUMANN. You know, I just think there is some legitimate concern regarding emergency spending, should something happen that is truly outside the realm of expectation. The Persian Gulf War might be an example that was truly outside.

But, at this point in time, should we anticipate a Bosnia once every two or three years? It almost looks like, based on recent history, we need to be anticipating that in the budget process and we should be allocating enough money for the emergency spending to cover that. Or, who knows, the tornado that just went through Oakdale, Wisconsin. You know, those—you begin to anticipate that those things are going to happen. And you should have—just like we did when we built homes—I mean, you should have a category in your budget process that takes care of it.

Mr. SHADEGG. A contingency fund?

Mr. NEUMANN. Absolutely. We always—when I bid out a house, we always had a 5 percent contingency in there for unexpected expenditures. And I would add that on a lot of homes: we did not spend the 5 percent; we spent 1 percent or 2 percent, but there were other homes over here where we spent 20 percent. For whatever reason: you hit stone four feet under the ground and since our contract said we would pay for it if we hit it, we did pay for it as opposed to going back to the owner, and that, of course, would throw you over.

But it should be a planned expenditure. I mean, it's not a surprise—at least it wasn't in the home building business—that there are going to be unexpected expenditures. And, not only that, that you are going to have a cost after the people move; in the house, but that's not a surprise, that should be anticipated, just like emergency spending should be anticipated here.

Mr. SHADEGG. Congressman Largent's statement talks about the rainy day fund and Oklahoma; Arizona adopted a rainy day fund. I guess I agree with you that it is not difficult to anticipate emergencies and that we ought to establish a fund or some mechanism to deal with them. By the same token, I think there is a legitimate point, in part raised by Congressman Largent's remarks and at least in reality raised by what has occurred, that oftentimes what we call an emergency around here isn't an emergency.

And an earthquake occurs in Los Angeles and we discover the bill to fund taking care of that catastrophe contains bridges in Alabama or Arkansas or wherever that have absolutely nothing to do with that and are merely escape hatches through which money seeps out of this place and we pass on that debt to our children and our grandchildren.

I have nothing further, thank you.

Mr. MILLER. Steve, do you want to make a comment?

Mr. LARGENT. The only thing I would add is that when Mark alluded to the fact that the deficit could be down to about \$120 billion, I would just caution—especially members of this committee, about getting too excited about that.

I would equate it to the Lithuanian basketball team giving high fives at the end of the game with the U.S. Olympic Team, saying they only beat us by 60 points. The fact is we still have \$120 billion that we are spending more of our children's money than we have.

And so, we still have our work cut out for us.

Mr. MILLER. Where do we go from here?

Ms. MYRICK. May I make a suggestion?

Mr. MILLER. Yes.

Ms. MYRICK. Mr. Largent, do you know whether the suggestions that you have made and that Mark has made are part of the task force that David Dreier and Jennifer Dunn are heading up? Is any of your information covered in what they're dealing with in committee structure?

Mr. LARGENT. Well, basically the two vehicles that we've looked at under the budget process reform task force that I've been working on with Chris Cox have been Chris' bill and then Joe Barton's bill.

Ms. MYRICK. Right.

Mr. LARGENT. And both of those vehicles contain most of the elements that have been discussed in this hearing today.

Ms. MYRICK. But they're outside the structure of what they're doing with the task force and the committee reorganization?

Mr. LARGENT. No. I haven't been very integrated in what they're doing.

Ms. MYRICK. Thank you.

Mr. MILLER. Any other concluding comments?

[No response.]

Mr. MILLER. Well, I guess we need to get with the chairman of the committee and go from there.

Thank you all very much for being here today.

Oh, we will keep the record open until Mr. Condit arrives, if he does.

[Recess.]

[Prepared statement of Gary A. Condit follows:]

PREPARED STATEMENT OF HON. GARY A. CONDIT, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF CALIFORNIA

Chairman Kasich, Mr. Sabo, Members of the Committee: thank you for the opportunity to testify on my bill, H.R. 3397, to require the President of the United States to submit a balanced budget plan to the Congress and to forbid the consideration in the House of Representatives of any budget resolution that does not provide for a balanced budget. Under the bill, these changes would take effect at the beginning of the 105th Congress.

Under the terms of the bill, the President must submit to Congress a detailed plan to balance the Federal budget in six years or less. In the event the President's budget plan is not in balance, as determined by the Congressional Budget Office (CBO) after review, it would be returned to the White House. In addition, the legislation provides that the only concurrent budget resolution in order in the House is one that provides for a balanced budget and this provision is enforced by a non-waivable point-of-order. During a declared war or national emergency, these requirements could be suspended.

This measure does not interfere with the ability of the President or the Congress to set spending priorities. Under current law, Title 31, Presidents are required to meet several requirements in their budget submission (see Attachment 1), and this bill simply adds to those requirements. Furthermore, nothing in this bill interferes with the Budget Committee obligation to determine spending priorities and to instruct the authorizing committees to reduce spending.

Mr. Chairman and Members, the last budget surplus occurred in fiscal year 1969, and you have to go back to fiscal years 1956 and 1957 to find two consecutive years

of budget surplus. According to the Office of Management and Budget (OMB), President Clinton's fiscal 1997 budget produces balance in the year 2002. The CBO, however, found that the President's claim of budget balance is based on "contingent" proposals, including sunseting tax relief, triggering new taxes and Medicare cuts, and unspecified reductions in discretionary spending of 15 percent in 2002. Absent these contingencies, the President's fiscal 1997 budget results in a \$80 billion deficit.

In the last few years, Presidents have submitted budget plans to the Congress that rested on rosy economic assumptions and restrained spending through the generous use of budget gimmickry, and successive Congresses were all too willing to go along with these practices. The President's fiscal 1997 budget is proof that the use of blue smoke and mirrors continues unabated. President Clinton does deserve credit for agreeing to balance the budget and to work with the leadership of Congress to achieve that goal.

This legislation has been endorsed by the National Taxpayers Union, Citizens Against Government Waste, Americans for Tax Reform, the United States Chamber of Commerce, and the National Federation of Independent Business.

Mr. Chairman and Members, if we can begin each budget year with balanced budget proposals from both the President and the Congress, I am certain we can end the year with a credible and bipartisan balanced budget. This is the least we can do. Thank you.

#### ATTACHMENT 1.—TITLE 31, SECTION 1105

*Submission*—The budget must be submitted between the first Monday in January and the first Monday in February. Also, the budget must be prepared by the OMB in a manner consistent with the Balanced Budget and Emergency Deficit Control Act of 1985.

*General Structure*—(1) budget message, (2) budget summary, (3) supporting information.

The Budget must include—information on activities and costs of the government; information on the achievements of programs; a reconciliation of the summary information on expenditures with proposed appropriations for the budget's fiscal year.

Estimated expenditures for 4 years after the year for which the budget is submitted (based upon current law and proposals to increase revenues); a list of appropriations, expenditures and receipts for the prior fiscal year and the budget's fiscal year; balanced statements on the condition of the Treasury at the end of the prior FY, current FY, and budget's FY.

Essential debt information and other necessary info to explain the Government's current financial situation; an allowance for additional estimated expenditures, proposed appropriations, and "unanticipated uncontrollable" expenditures; the level of tax expenditures under existing law in the tax expenditures budget based on proposals and economic projections; a comparison of the total amount of budget outlays and receipts for programs in the prior FY and the budget's FY. Analysis and explanation must include these comparisons.

A statement on all changes about the current FY that were made before the budget information was submitted; analysis for the ensuing FY that identifies requested appropriations or new authority and outlays for each major public or military capital investment program. He must include summaries and estimates of current service levels, recent assessment analysis, and principal factors and policy issues affecting capital invest.

#### MISCELLANEOUS

The President must also include other information he deems necessary and helpful.

Estimated expenditures and proposed appropriations for the Legislative Branch and the Judicial Branch must be submitted to the President before October 16 and must be included by the President without change.

The President must recommend appropriate action to meet an estimated deficit when expenditures exceed receipts.

Title 31, Sec. 1105 also mentions some special requirements for individual programs, offices, and acts.



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## Attachment 2.—Budget Outlays

Fiscal year	Outlays	Projected deficit	Actual deficit
1969 .....	186.1	- 8.0	3.2
1970 .....	195.3	3.4	- 2.8
1971 .....	200.7	1.3	- 23.0
1972 .....	229.2	- 11.6	- 23.3
1973 .....	246.3	- 25.5	- 14.9
1974 .....	268.7	- 27.8	- 6.1
1975 .....	304.4	- 9.4	- 53.2
1976 .....	349.4	- 51.9	- 73.7
1977 .....	394.2	- 43.0	- 53.6
1978 *rev .....	459.4	- 57.7	- 59.1
1979 .....	512.7	- 73.1	- 40.7
1980 .....	543.5	- 41.0	- 73.8
1981 .....	633.9	- 33.9	- 78.9
1982 .....	711.8	- 45.8	- 127.9
Reagan rev .....	650.3	61.7	.....
1983 .....	773.3	- 107.2	- 207.8
1984 .....	862.5	- 202.8	- 185.3
1985 .....	940.3	- 195.2	- 212.3
1986 .....	973.7	- 180.0	- 221.2
1987 .....	994.0	- 143.6	- 149.7
1988 .....	1024.3	- 107.8	- 155.1
1989 .....	1094.2	- 129.5	- 152.4
1990 .....	1151.8	- 92.5	- 221.1
1991 .....	1233.3	- 63.1	- 269.3
1992 .....	1445.9	- 280.9	- 290.4
1993 .....	1515.3	- 349.9	- 255.1
1994 .....	.....	.....	- 203.1
Bush .....	1522.7	- 292.4	.....
Clinton .....	1513.0	- 262.5	.....
1995 .....	1518	- 165.1	- 163.9
1996 .....	.....	- 196.7	- 116.8
1997 .....	.....	- 125.7	.....

Mr. MILLER. We will adjourn the meeting now.  
 [Whereupon, at 3:27 p.m., the committee was adjourned.]





ISBN 0-16-053686-3



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